

EXHIBIT A

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

Tammy Braun,

Plaintiff,

vs.

Case Number 2022 CV 01223

Unum Life Insurance Company
of America,

Defendant.

Remote Videoconference Deposition of

Scott Barclay Norris, M.D.

Tuesday

January 17, 2023

-Video Recorded Remotely by-

In Demand Video Court Reporting
216 South Jefferson Street, Suite 103
Chicago, Illinois 60661

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APPEARANCES

For the Plaintiff:

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1 THE RECORDER: Okay. Good morning. We are
2 now on record. Today is Tuesday, January 17th, 2023.
3 The time is 9:59 a.m. By agreement of all parties, we
4 are convened via remote videoconference for the
5 video-recorded deposition in the matter of Tammy Braun
6 v. Unum Life Insurance Company of America, Case No.
7 1:22-cv-01223, in the United States District Court for
8 the Northern District of Illinois, Eastern Division.

0:00:29

9 This deposition is being recorded by In
10 Demand Court Reporting, located at 216 South Jefferson
11 Street, Chicago, Illinois 60661, on behalf of the
12 Plaintiff and being taken at the instance of the
13 Plaintiff. The witness today is Scott Barclay Norris.

0:00:44

14 Dr. Norris, my name is Marina Stokes. I am a
15 notary public and the video recording device operator
16 for this deposition. At this time, would you please
17 raise your right hand for the oath?

0:00:51

18 (Witness sworn)

19 THE RECORDER: Thank you.

20 Will the attorneys please state their
21 appearances for the record?

0:01:03

22 MR. MALONEY: Matthew Maloney on behalf of
23 the Plaintiff.

24 MR. DEBOFSKY: Mark DeBofsky on behalf of the
25 Plaintiff.

0:01:08

1 MS. HERRING: Jacqueline Herring on behalf of
2 the Defendant, Unum Life Insurance Company of America.

3 THE RECORDER: Okay. That completes our
4 required information. We can go ahead and proceed. 0:01:17

5 MR. MALONEY: All right.

6 DIRECT EXAMINATION

7 BY MR. MALONEY:

8 Q. Dr. Norris, could you please state your full
9 name for the record once more?

10 A. Yes. Scott Barclay Norris. 0:01:25

11 Q. Thank you. Have you ever gone by any other
12 names?

13 A. No.

14 Q. Have you ever given a deposition before? 0:01:33

15 A. Yes.

16 Q. And what were those circumstances of that?

17 A. Related to cases with Unum. 0:01:42

18 Q. So where you rendered a medical opinion?

19 A. That's correct.

20 Q. Okay. Got it. And is there any reason you
21 cannot testify truthfully today? 0:01:50

22 A. No.

23 Q. Okay. Just to go over a few things before we
24 really get into it. I just want to remind your
25 testimony today is under oath. 0:02:00

1 And since the court reporter will be taking
2 everything down, it's important that we have a clear
3 record. So we'll have to do our best next to speak
4 over each other. 0:02:08

5 And if you could only respond with verbal
6 responses, you know, "yes" or "no," no like head
7 shaking or "mm-hmm," like nothing like that. 0:02:20

8 If you give me an answer to a question, I'll
9 assume you understood it. But if you don't understand
10 it, feel free to ask me to clarify. 0:02:27

11 And if you need a break, just say so. The
12 only thing I ask is that if there is a question
13 pending, you answer the question, and then we can go
14 ahead and take a break. 0:02:36

15 Okay. So what did you do to prepare for
16 today's deposition?

17 A. I -- well, originally I reviewed the file, of
18 course, and more recently reviewed my own records and
19 file records, or parts of them, and I -- I had a
20 session with Ms. Herring with regard to the preparation
21 for the circumstances of the deposition. 0:03:03

22 Q. Okay. And you're a medical doctor?

23 A. That's correct.

24 Q. What states are you licensed in? 0:03:11

25 A. Tennessee.

1 Q. Tennessee. No other states?

2 A. No.

3 Q. Okay. Is your practice or your focus

4 primarily in aerospace medicine?

0:03:21

5 A. No.

6 Q. What -- what is your focus?

7 A. Well, my focus is I'm a medical consultant at

8 Unum. That is my practice.

0:03:32

9 Q. Okay. So you don't have any involvement in
10 aerospace medicine?

11 A. I'm board-certified in aerospace medicine.

12 Q. Okay. Got it. And you're also

13 board-certified in occupational medicine?

0:03:44

14 A. That's correct. Occupational environmental
15 medicine.

16 Q. Okay. Did you have to complete any

17 residencies for those certifications?

0:03:54

18 A. Yes.

19 Q. Yes. And when did that take place?

20 A. My initial residency was in family medicine.

21 I finished in 1997. Next I -- I completed a -- a

22 residency in aerospace medicine in 2006.

0:04:14

23 And then I completed a residency in

24 occupational environmental medicine in 2007.

25 Q. Okay. And were there any board examinations

1 in relation to those?

0:04:25

2 A. Yes.

3 Q. For each one?

4 A. That's correct.

5 Q. Okay. Are you involved in any professional

6 organizations?

0:04:33

7 A. American Academy of Family Physicians.

8 Q. Okay.

9 A. And Tennessee Academy of Family Physicians.

0:04:39

10 Q. Okay. Does an aerospace medicine doctor
11 treat conditions that affect individuals involved in
12 air and space travel?

13 A. That -- that would be correct. That's part
14 of the practice. Yes.

0:04:54

15 Q. Okay. And what about occupational medicine?
16 Is that focused on workplace injuries and diseases?

17 A. Several things. Workplace injuries and
18 diseases. Certainly understanding the workplace.
19 Toxicities involved.

0:05:09

20 Disability terminations -- or rather return
21 to work determinations. Educational workers. Those
22 type things.

23 Q. Got it. When did you last treat a patient?

0:05:23

24 A. In -- in person?

25 Q. Yes.

1 A. Probably 2010.

2 Q. Okay. Is there a circumstance where it --
3 your treatment wasn't in person?

0:05:34

4 A. Not since then. No.

5 Q. Okay. And is that around the time you
6 started working for Unum?

0:05:42

7 A. That is. I started working for Unum January
8 of 2011.

9 Q. Okay. What's your current job title with
10 Unum?

0:05:50

11 A. I'm a medical consultant.

12 Q. Medical consultant. And is that the only
13 position you've held at Unum?

0:05:57

14 A. Yes. That's correct.

15 Q. Okay. Is your position as a consultant
16 within any particular department at Unum?

0:06:08

17 A. I work within the appeals department.

18 Q. Okay. So if you're working with appeals, you
19 primarily perform medical reviews for claims that Unum
20 has previously denied?

0:06:19

21 A. Primarily. Yes.

22 Q. Okay. What is your current gross annual
23 salary?

0:06:33

24 MS. HERRING: I'm going to -- I'm going to
25 object to that. The -- the amount of his salary is not

Page 10

1 relevant. It's -- it's private.

0:06:41

2 You can ask him if he's -- gets income from
3 any other source, that all of his income is from Unum,
4 that he's on salary with Unum. But we're going to
5 object to the amount.

0:06:49

6 BY MR. MALONEY:

7 Q. Do you receive a salary from Unum?

8 A. I do.

9 Q. Have you ever received a raise from Unum?

0:07:00

10 A. Yes.

11 Q. And when did that -- when did the most recent
12 raise occur?

13 A. Oh. I -- I'd have to look at my pay records
14 to be accurate. I -- I -- I believe it was last year.

0:07:13

15 Q. Okay. And do you know how Unum measures
16 eligibility for a raise?

17 A. My understanding is there are several
18 factors. My immediate manager is the person who
19 communicates that to me.

0:07:32

20 But the factors that are involved would be my
21 performance as a medical consultant, the quality of my
22 reviews, the efficiency -- produce a work product, how
23 I partner with teams like business partners and other
24 maybe medical consultants or clinicians in the process.

0:07:55

25 If I take on some leadership roles in, you

1 know, overseeing processes or changes to processes, and
2 those -- those type factors.

3 Q. Okay. And when was the last time you
4 received a bonus, if any?

0:08:09

5 A. Last year. I -- I -- yeah. Last year. I'm
6 sorry.

7 Q. Okay. And do you know approximately what
8 percentage of your overall salary the bonus made up?

0:08:17

9 A. I don't know the percentage without looking
10 at my, you know, pay records and all.

11 Q. Okay. And does Unum measure your job
12 performance for bonuses in a similar way that they do
13 for the raises that you just described?

0:08:33

14 A. That's my understanding.

15 Q. Okay. Are there any specific goals that you
16 need to meet to be eligible for a bonus?

17 A. Throughout the year, we establish goals,
18 performance goals, and I coordinate those with my
19 immediate supervisor, my manager.

0:08:58

20 Q. Okay. And do you know any of those specific
21 performance goals?

22 A. Yes.

23 Q. And what are they?

0:09:04

24 A. A lot of it revolves around timeliness of my
25 reviews, quality of my reviews through Q- -- QA

1 reviews, those type of things. Again, taking various
2 leadership roles as in projects that typically deal
3 with processes within the appeals department
4 specifically related to me as a medical consultant. 0:09:30

5 These type measures. And then throughout the
6 year, we assess how I'm doing in meeting those goals.

7 Q. Got it. Do you hold any stock in Unum? 0:09:45

8 A. Yes.

9 Q. Do you know how much?

10 A. Offhand, I don't know how much. 0:09:52

11 Q. Okay. Is there an additional component to
12 your salary known as the long-term incentive program?

13 A. Yes.

14 Q. And what is that based on? 0:10:02

15 A. My understanding is the same performance
16 measures that I just discussed.

17 Q. Okay. So outside of the bonus, the long-term
18 incentive program, and stock, is there any other
19 component of your income from Unum that we haven't
20 discussed? 0:10:22

21 A. Well, you mentioned of course the base
22 salary. You mentioned the raise earlier. There's
23 performance-based incentive. And then the long-term
24 incentive. 0:10:33

25 Q. Okay. Thank you. Does Unum consider the

1 medical consultant's specialties when assigning claims?

2 A. I -- I -- I would imagine in -- in some ways
3 they do -- they do.

0:10:51

4 Q. Do you know --

5 A. It --

6 Q. -- how exactly claims are assigned?

7 A. Could you -- how claims are assigned for a
8 medical consultant review? Is that your question?

0:11:03

9 Q. Yes. Sorry.

10 A. Right. So I am a -- a general medicine
11 physician. Call it general medicine because I cover
12 general medical conditions in appeals.

0:11:16

13 So I would typically get a general medical
14 file. And that would be a file that encompasses
15 primarily, you know, like I said, those type general
16 medical conditions, as opposed to like psychiatry or
17 something that is outside of my medical field. So --

0:11:32

18 Q. All right.

19 A. -- that might come to me on occasion. A file
20 might go to one of our external reviewers.

0:11:44

21 And it's typically going to be a general
22 medicine file like I might get, and just due to
23 workload requirements and all.

24 Q. Okay. Has Unum ever instructed you to limit
25 your medical opinion to conditions with which you have

Page 14

1 had treatment experience?

0:12:02

2 A. Not necessarily treatment experience. The --
3 the -- certainly I'm -- I'm limited by my overall
4 experience and training. But not necessarily treatment
5 experience.

0:12:19

6 Q. Okay. Did you conduct a medical file review
7 regarding the Plaintiff, Tammy Braun?

8 A. I did.

9 Q. And when did you first become aware of
10 Braun's claim for disability benefits?

0:12:33

11 A. I don't recall the exact date it would've
12 been. I believe it was a forum that I -- I attended --
13 if I attended a forum on this one.

0:12:44

14 That's usually where the claim first becomes
15 apparent to the medical side. Occasionally I'll get a
16 direct referral, and that is a file that's referred
17 directly for me to review without a forum.

0:12:58

18 Q. Okay. What is a forum?

19 A. A forum is a meeting -- it's a brief meeting
20 with our business partners, the claims specialist,
21 typically a director of the team, typically a -- a
22 clinician, who's usually a nurse, and then possibly
23 myself as a medical consultant and possibly a
24 vocational resource.

0:13:20

25 Q. Okay. I'd now like to introduce what's been

1 marked as Exhibit 1.

2 (Exhibit No. 1 marked for identification.)

3 BY MR. MALONEY:

4 Q. If you could please turn your attention to
5 that. The document is Bates stamped in the bottom
6 right hand. It is UA-CL-LTD-000717.

0:13:41

7 Do you have that document?

8 MS. HERRING: And Matt --

9 THE WITNESS: I --

10 MS. HERRING: -- yeah, if I could just
11 clarify. Are you going to screenshot, or did you want
12 me to send him the exhibits?

0:13:50

13 MR. MALONEY: If you can send them to him,
14 that'd be great, or I can send them.

15 MS. HERRING: Well, you sent them to me, so I
16 can certainly forward them.

17 I -- Doctor, did you receive the exhibits?

0:14:02

18 THE WITNESS: Priscilla sent me the -- the
19 Bates stamped file. I -- I don't --

20 MS. HERRING: Okay.

21 THE WITNESS: -- have it open right now, but.

0:14:08

22 MS. HERRING: Okay.

23 All right. Let's go off the record for a
24 second then.

25 And Doctor, what I'm -- what I'm going to

1 send you -- Mr. Maloney is -- is referring to some
2 specific documents that he identified for the
3 deposition.

0:14:18

4 He's provided those to me. I'm going to
5 email them to you so that you have them. And then
6 he'll let you know which one he wants you to open, and
7 we'll go from there.

8 So --

0:14:27

9 THE WITNESS: Okay.

10 MS. HERRING: -- if we could just have five
11 or ten minutes so I can send those to the doctor.

12 MR. MALONEY: Sure. Thank you.

0:14:32

13 THE RECORDER: Sure.

14 Off the record at 10:13 a.m.

15 (Off the record)

16 THE RECORDER: We are back the record at
17 10:16 a.m.

0:14:41

18 BY MR. MALONEY:

19 Q. Okay. Doctor, do you see what's labeled as
20 Exhibit No. 1 with the Bates number in the bottom
21 right-hand corner ending 717?

0:14:51

22 A. I -- I do.

23 Q. Is this the report that you drafted regarding
24 Plaintiff's disability claim?

25 A. Give me just a second to pull it up. It's

Page 17

1 Exhibit 1 of -- just looking at the email here.

0:15:02

2 Q. Sure.

3 A. Let me see. And -- okay. I've -- I've got
4 the copy of it up. And -- and what was your question
5 again?

0:15:18

6 Q. Is that the report that you drafted regarding
7 Plaintiff's disability claim?

8 A. It -- that's -- that's correct.

9 Q. Okay. Approximately how much time did you
10 spend drafting this report?

0:15:28

11 A. I mean, I'll typically spend five to eight
12 hours reviewing and draft -- and drafting a report,
13 reviewing the file and drafting the report. I don't
14 recall specifically on this one.

0:15:41

15 Q. Sure. And was your opinion that Braun was
16 physically capable of performing sedentary work?

17 MS. HERRING: Well, objection. Form.
18 Mischaracterization.

19 Go ahead, Doctor.

0:15:52

20 THE WITNESS: I mean, let me look at the
21 specific question they asked me. Sometimes they vary.
22 So I was asked if there were restrictions/limitations
23 that would've precluded her from performing.

0:16:08

24 And I didn't find evidence of -- of
25 restrictions/limitations that would've precluded her

1 from form -- performing essentially sedentary level
2 occupational work.

3 BY MR. MALONEY:

4 Q. Okay. And what is sedentary work? 0:16:23

5 A. Well, in this case, they -- they define it
6 here in the question, the first question to me. Do you
7 -- do you want me to read it to you? 0:16:33

8 Q. Sure.

9 A. Okay. So the question says (as read):
10 Does the medical file evidence support R's and L's
11 restrictions/limitations that would've precluded the
12 Claimant from performing the occupational demands of
13 lifting, carrying, pushing, pulling 10 pounds
14 occasionally, mostly sitting, may involve standing or
15 walking for brief periods of time, frequent bilateral
16 handling, fingering, and reaching primarily at desk
17 level? 0:17:01

18 And it says (as read): The duties of
19 this occupation would allow for changes in position for
20 brief periods of time throughout the day. 0:17:08

21 And I was asked for a specific time period of
22 January 26th, 2021 through April 25th, 2021.

23 Q. Okay. Do you see the bottom of page 717
24 there, where it says "Medical issue?" 0:17:27

25 A. Let me see. Of 717. Let me back up.

Page 19

1 Q. It's the very bottom -- 0:17:34

2 A. Right --

3 Q. -- paragraph.

4 A. -- right. Right. I'm scrolling up to it.

5 Sorry. I'm on my laptop, so about a -- 0:17:40

6 Q. No, take --

7 A. -- third of --

8 Q. -- your time.

9 A. -- a page here. I -- okay. I see it. And

10 -- 0:17:45

11 Q. Um --

12 A. -- the very bottom. Yep. Medical issues.

13 Mm-hmm.

14 Q. Okay. Did you list diagnoses of

15 hypophosphatemia, DJD, and CTS as the bases for Braun's

16 claim? 0:17:55

17 A. Yes.

18 Q. And is DJD degenerative joint disease?

19 A. That's correct.

20 Q. And CTS is carpal tunnel syndrome? 0:18:03

21 A. That's correct.

22 Q. Okay. What is hypophosphatemia?

23 A. Low serum phosphate level. 0:18:11

24 Q. Is that also known as rickets?

25 A. There are several types of rickets. This is

1 known as Vitamin D-resistant rickets in -- in her case. 0:18:23

2 Q. Is -- is it a disease of the bones?

3 A. It's actually a disease of metabolism of
4 phosphate. But the -- the -- one of the effects is on
5 bone formation and metabolism. 0:18:42

6 Q. Okay. Can chronic pain be a symptom of
7 hypophosphatemia?

8 A. Potentially hypophosphatemia more likely due
9 to the resultant degenerative joint disease. 0:18:56

10 Q. Okay. And that was my next question,
11 actually. Is there a propensity for individuals with
12 hypophosphatemia to suffer from arthritis or joint
13 degeneration? 0:19:08

14 A. It's variable, but yes.

15 Q. Okay. Have you conducted any research
16 regarding hypophosphatemia? 0:19:18

17 A. No.

18 Q. Have you read any medical literature
19 regarding the condition?

20 A. Periodically throughout my training.
21 Certainly on -- yes. 0:19:30

22 Q. Your training -- when -- what training?

23 A. Throughout my training and practice. I mean,
24 every now and then, a -- a -- a patient may have a low
25 phosphorus level or maybe even a -- a condition like,

Page 21

1 this lady, an X-linked hypophosphatemia.

0:19:51

2 But I -- I mean, it's pretty rare. But
3 occasionally I -- I would read something about
4 hypophosphatemia. Sure.

5 Q. Can symptoms of hypophosphatemia prevent an
6 individual from performing a sedentary level job?

0:20:09

7 A. There's a range of manifestations related to
8 hypophosphatemia.

9 Q. So it could prevent a person from performing
10 a sedentary job. In some cases.

0:20:23

11 A. In -- in some cases, it would be possible.

12 Q. Okay. What is degenerative joint disease?

0:20:33

13 A. It's a -- typically a breakdown in the
14 cartilage and subsequently the bone surrounding the
15 joints due to a variety of conditions.

16 Q. Is that a progressive condition?

0:20:50

17 A. It can be.

18 Q. And can it be associated with pain?

19 A. Yes.

20 Q. Have you conducted any research regarding
21 degenerative joint disease and its relationship to
22 hypophosphatemia?

0:21:07

23 A. No.

24 Q. Have you had any training regarding
25 degenerative joint disease and hypophosphatemia?

Page 22

1 A. Yes.

0:21:14

2 Q. Yes. And what was that training?

3 A. Simply during residency training. And -- and
4 this would often come up, say, in a childhood
5 orthopedic type center.

0:21:29

6 That might be when it's first noticed, so
7 part of my training in orthopedics and pediatrics
8 would've included this condition and others similar to
9 it.

0:21:40

10 Q. Okay. Can symptoms of degenerative joint
11 disease prevent an individual from performing a
12 sedentary job?

13 MS. HERRING: Objection. Asked and answered.

0:21:51

14 MR. MALONEY: I asked regarding
15 hypophosphatemia before. I --

16 MS. HERRING: Doctor, you can go ahead.

0:22:01

17 THE WITNESS: Okay.

18 So can you state the question again?

19 BY MR. MALONEY:

20 Q. Sure. Can degenerative joint disease prevent
21 an individual from performing a sedentary level job?

0:22:09

22 A. Yes. Potentially.

23 Q. Okay. And what is carpal tunnel syndrome?

0:22:17

24 A. It's a compression neuropathy or a
25 compression on the median nerve at the wrist.

1 Q. Have you conducted any research regarding CTS
2 and its relationship with hypophosphatemia?

0:22:34

3 A. No.

4 Q. And have you undergone any training regarding
5 carpal tunnel syndrome?

6 A. Yes.

7 Q. And was that also during your residencies?

0:22:44

8 A. Yes. During the residency. And then
9 periodically throughout my career with continuing
10 medical education. And -- and that would apply to the
11 others as well, hypophosphatemia and degenerative joint
12 disease.

0:22:57

13 Q. Sure. Would you agree that the field of
14 aerospace medicine is irrelevant to Braun's conditions?

15 MS. HERRING: Objection. Form.

16 Go ahead, Doctor.

0:23:11

17 THE WITNESS: Is -- is it irrelevant to her
18 -- her condition?

19 BY MR. MALONEY:

20 Q. Yeah.

21 A. Is -- is --

22 Q. So is --

23 A. -- that your question?

0:23:21

24 Q. Does the field of aerospace medicine relate
25 to Braun's hypophosphatemia, degenerative joint

1 disease, and carpal tunnel syndrome?

2 MS. HERRING: Objection. Form.

0:23:33

3 THE WITNESS: I --

4 MS. HERRING: Yeah. Go ahead, Doctor.

5 THE WITNESS: Do I answer?

6 MS. HERRING: Yeah.

0:23:40

7 THE WITNESS: Well, it -- it -- the -- the
8 aerospace component is -- is -- wouldn't typically be
9 relevant to this case specifically but yet the process
10 of evaluating the workplace environment and those type
11 things are relevant to carpal tunnel syndrome,
12 degenerative joint disease, not so much a genetic
13 disorder like, in her case, the hypophosphatemia.

0:24:08

14 But again, aerospace medicine is focused on
15 that unique work environment, and so the processes, the
16 thought processes, and the clinical approach is similar
17 to occupational medicine in that standpoint.

0:24:22

18 BY MR. MALONEY:

19 Q. Do you -- have you received any training
20 regarding carpal tunnel syndrome and its specific
21 relationship to hypophosphatemia?

22 A. Carpal tunnel syndrome and its specific
23 relationship to hypophosphatemia. No.

0:24:43

24 Q. Does Unum provide you access to all of the
25 claimant's evidence when you're assessing a claim?

1 A. I have access to a navalink (phonetic) file
2 that information is in there. Whether that's all the
3 information that's been received, I don't know, but
4 that is what I have access to.

0:25:10

5 Q. Okay. And in your report, did you discuss
6 the evidence that you considered to be most
7 significant?

8 A. Yes.

9 Q. And approximately how much time did you spend
10 reviewing the evidence you were provided through that
11 navalink?

0:25:29

12 A. I -- I -- I think I said I spent probably
13 five to eight hours on this file. Of that time,
14 probably three-fourths of it would be spent reviewing
15 the information and the --

0:25:43

16 Q. Right.

17 A. -- balance writing the report.

18 Q. Got it. If you could please turn your
19 attention to what's marked as Exhibit No. 2.

0:25:52

20 A. Okay.

21 (Exhibit No. 2 marked for identification.)

22 BY MR. MALONEY:

23 Q. Do you know what this document is?

24 A. Let me scroll down here a second.

0:26:04

25 Q. Sure.

1 A. So the title is a Pain Residual Functional
2 Capacity completed by Dr. Geringer.

3 Q. Did you consider this questionnaire when
4 formulating your disability opinion?

0:26:18

5 MS. HERRING: Objection. Form,
6 mischaracterizes his opinions.

7 THE WITNESS: I -- I -- I -- I reviewed this
8 document.

0:26:31

9 BY MR. MALONEY:

10 Q. Okay. Let's see. And if you could look at
11 question No. 2 in that form. Did Dr. Geringer list
12 diagnoses of generalized osteoarthritis and rickets?

0:26:48

13 A. Question No. 2. I'm scrolling. Generalized
14 osteoarthritis, rickets, X-linked. Correct. Yes,
15 that's correct.

0:26:58

16 Q. And then for question No. 6, did Dr. Geringer
17 list clinical findings and objective signs of limited
18 ROM in back and hips, knees, and right shoulder?

19 A. Yes.

0:27:14

20 Q. Is ROM range of motion?

21 A. That -- that's correct.

22 Q. If you could please turn to the next page,
23 689.

0:27:24

24 A. Okay.

25 Q. Question No. 12. Did Dr. Geringer state

1 Braun would frequently experience pain severe enough to
2 interfere with attention and concentration needed to
3 perform even simple work tasks?

0:27:40

4 A. He answered "Frequently."

5 Q. And is frequently defined as 34 percent to 66
6 percent of an eight-hour work day?

0:27:50

7 A. That is what the statement above that
8 question says.

9 Q. And for question No. 14, did Dr. Geringer
10 indicate that Braun can only sit for 20 minutes at one
11 time?

0:28:07

12 A. Let's see. As a result -- yeah. So this is
13 his August 6th response. And it says 20 minutes at one
14 time.

15 Q. And did he indicate that Braun could only
16 stand for 15 minutes at one time?

0:28:31

17 A. That's right.

18 Q. And on the next page, 690, which should be
19 the final page of the exhibit.

20 A. Okay.

0:28:45

21 Q. Did Dr. Geringer state that Braun can only
22 sit for about two hours in a total eight-hour work day?

23 A. Based on his 6 August '21 response, yes,
24 about two hours.

0:29:02

25 Q. And did he -- did he indicate that Braun can

1 only stand and walk for less than two hours total in an
2 eight-hour work day?

3 A. He -- on this form. That's correct. 0:29:19

4 Q. Did Dr. Geringer state that Braun must be
5 permitted to shift positions at will?

6 A. I -- I -- it -- do you -- do you -- is that
7 in one of the questions? 0:29:40

8 Q. Sure. So under letter f.

9 A. F. Let me get that. Shifting positions at
10 will from sitting, standing, and walking. Yes. 0:29:53

11 Yes, he indicated Yes.

12 Q. And -- okay. For letter g, did Dr. Geringer
13 state that Braun would need four unscheduled breaks of
14 15 minutes each per day? 0:30:09

15 A. That's what Dr. Geringer wrote.

16 Q. For letter h, did Dr. Geringer indicate that
17 Braun would miss more than four days of work each
18 month? 0:30:28

19 A. H. Oh, I see. Down below. Yes. He
20 indicated more than four days per month.

21 Q. Are Dr. Geringer's restrictions listed in
22 this questionnaire inconsistent with an ability to
23 perform sedentary work? 0:30:47

24 A. Well, his restrictions would be inconsistent
25 with her capacity to -- let back up to the very

Page 29

1 beginning and see what he wrote about. 0:31:08

2 Range of motion. I don't think he -- it --
3 it -- they would be inconsistent with her capacity to
4 perform the demands that I was provided to assess. 0:31:30

5 Q. Okay. If you could please turn your
6 attention to what's been marked as Exhibit 3.

7 A. Okay. 0:31:38

8 (Exhibit No. 3 marked for identification.)

9 BY MR. MALONEY:

10 Q. And the Bates number at the bottom ends in
11 415.

12 A. Let me get to it here. Okay. 0:31:53

13 Q. Do you know what this document is?

14 A. It is a June 29th, 2021 letter from Dr.
15 DeForest.

16 Q. Mm-hmm. Did you review this letter as part
17 of drafting your medical opinion? 0:32:12

18 A. I -- I -- I believe so. If it was in the
19 file at the time. There were several work restriction
20 documents submitted by Dr. DeForest and Geringer and I
21 -- I believe this one was in there. 0:32:27

22 But I'd have to go back and doublecheck to
23 make sure.

24 Q. Sure. So the first paragraph. Did Dr.
25 DeForest state that he had been treating Braun since

Page 30

1 2004?

0:32:41

2 A. Yes.

3 Q. In the second paragraph, did Dr. DeForest
4 list a diagnosis of hypophosphatemia since birth?

5 A. He did.

0:32:53

6 Q. In that same paragraph, did Dr. DeForest
7 describe Braun's hypophosphatemia as a progressively
8 crippling disorder that worsens with age?

9 A. Yes. He did.

0:33:05

10 Q. In the third paragraph, did Dr. DeForest
11 state that Braun experiences progressive deterioration
12 of her joints that cause severe degenerative joint
13 disease?

14 A. He -- he -- he notes that her condition
15 includes progressive degeneration of her joints and
16 this deterioration causes severe degenerative joint
17 disease. Yes.

0:33:33

18 Q. In that same paragraph, did Dr. DeForest
19 state that Braun now struggles with severe pain on a
20 daily basis?

21 A. He did.

22 Q. Did Dr. DeForest state that Braun struggles
23 with all activities of daily living?

0:33:51

24 A. He did.

25 Q. And in that same paragraph, did Dr. DeForest

1 indicate that Braun is currently on pain medication for
2 this disorder which are used sparingly due to possible
3 adverse reaction?

0:34:09

4 A. Yes. He did.

5 Q. And in the final full paragraph there, did
6 Dr. DeForest restrict Braun from standing for more than
7 ten to 15 minutes at once?

0:34:23

8 MS. HERRING: Objection. Form.

9 Go ahead, Doctor.

10 THE WITNESS: Dr. DeForest says (as
11 read): It is now recommended that she not stand for
12 more than ten to 15 minutes at a time.

0:34:34

13 BY MR. MALONEY:

14 Q. Okay. And did Dr. DeForest also recommend
15 that Braun avoid sitting for more than 20 to 30 minutes
16 at once?

17 A. Yes. He did.

0:34:47

18 Q. Did Dr. DeForest state that it was his strong
19 opinion that Tammy is no longer able to actively work
20 and that she is very appropriate for disability
21 benefits?

0:34:59

22 A. Yes. He did.

23 Q. Do the restrictions/limitations Dr. DeForest
24 listed in this letter preclude the ability to perform
25 sedentary work?

0:35:11

1 A. Certainly his statement "It is my strong
2 opinion that Tammy is no longer able to actively work"
3 would -- would imply that -- exactly that, that she's
4 not able to work.

0:35:29

5 The specifics of the standing and sitting
6 stipulations I'd have to defer to vocational resource
7 to see if those specifically would render her unable to
8 be -- to do sedentary work.

0:35:45

9 But -- but he does make the overall statement
10 that she's no longer able to actively work.

11 Q. Okay. If you could please turn back to
12 Exhibit No. 1, which is your report.

0:36:02

13 A. Okay. Hang on just a second. Okay.

14 Q. Did you render this opinion although
15 Plaintiff does not live in Tennessee?

0:36:18

16 A. Did -- did I render it although -- could --
17 could you --

18 Q. Yeah, I --

19 A. -- rephrase that?

20 Q. -- can -- I can restate that.

0:36:28

21 Were you aware that Plaintiff lives in
22 Illinois?

23 A. Oh, yes.

24 Q. Yes. And you're not licensed in Illinois?

0:36:39

25 A. No.

1 Q. Okay. Does Unum regularly permit you to
2 render medical opinions regarding claimants who do not
3 reside within Tennessee?

4 MS. HERRING: Objection -- 0:36:53

5 THE WITNESS: Yes.

6 MS. HERRING: -- form as to permit.

7 It's fine, Doctor. Go ahead. 0:36:58

8 THE WITNESS: Oh. Well -- well, yes. I -- I
9 -- I am asked to write reviews on claims of -- of
10 individuals who are not residents of Tennessee. 0:37:12

11 BY MR. MALONEY:

12 Q. If you could please turn your attention to
13 the first bullet point on page 71 --

14 A. Exhibit 1 --

15 Q. -- or -- or --

16 A. -- is that right? 0:37:23

17 Q. Yes.

18 A. Here we are. Okay. Okay.

19 Q. So the first bullet point near the
20 bottom there. Did you state that (as read):
21 Examination findings were limited and were not c/w the
22 severe level of impairment as reported by the EE, or
23 with a degree of functional compromise that would
24 preclude sedentary level occupational activity. 0:37:48

25 A. I did.

1 MS. HERRING: And --

2 BY MR. MALONEY:

3 Q. Does --

4 MS. HERRING: -- objection. That was an
5 incomplete reading of the first bullet point.

0:37:54

6 BY MR. MALONEY:

7 Q. Preclude sedentary -- and that also
8 includes (as read): Defined in the Referral question -
9 see below.

10 A. Yes.

0:38:09

11 Q. Does c/w mean consistent with?

12 A. That's correct.

13 Q. And does EE mean employee?

0:38:17

14 A. Yes. That's correct.

15 Q. So in this case, EE would refer to Braun?

16 A. The -- the claimant. Yes.

0:38:24

17 Q. Okay. Did you examine Braun as part of your
18 review?

19 A. No.

20 Q. Did you recommend that Unum obtain a
21 functional capacity evaluation of Braun?

0:38:37

22 A. No, I did not.

23 Q. Did you have any reason to doubt the accuracy
24 or credibility of Dr. DeForest's opinion?

25 MS. HERRING: Objection. Form.

0:38:56

1 Go ahead, Doctor.

2 THE WITNESS: I -- I -- I -- I certainly
3 considered his opinion.

4 BY MR. MALONEY:

5 Q. But was there anything contained within his
6 opinion that caused you to doubt its accuracy or
7 credibility?

0:39:14

8 A. I -- I -- I think -- could -- could -- could
9 you -- which opinion are you -- are you referring to?

10 Q. Sure. We'll say Dr. DeForest's letter, which
11 is Exhibit 3.

0:39:29

12 A. The one from June.

13 Q. Yes.

14 A. Right.

15 Q. June 29th, 2021.

0:39:36

16 A. I -- I think there were a couple things about
17 that. One, it's -- it's about two months after the
18 claim closed. Or after the elimination period.

0:39:47

19 And that's the period I was asked to give an
20 opinion on. So he had seen her a couple times since
21 then. And I -- I think at that point, potentially she
22 was worse or had different symptoms or things like
23 that.

0:40:01

24 So I don't think his opinion at that point
25 was -- is time relevant to the earlier period that I

1 was asked to look at. I think his opinion was -- when
2 I considered all the information, including the
3 findings of Dr. Geringer, her reported symptoms, the
4 diagnostics, the -- the intensity of treatment, I
5 thought his opinion regarding restrictions/limitation
6 was not an accurate representation of her capacity
7 during that elimination period.

0:40:41

8 Q. Okay. If you could please look at the second
9 bullet point right under that one.

10 A. Okay.

0:40:56

11 Q. Did you state that (as read):
12 Examinations by Dr. DeForest in March/April 2021 were
13 limited and described short stature and nonspecific DJD
14 of the knees, hips, and C-/T-/L-spine.

0:41:14

15 A. I -- that's correct. That was my statement.

16 Q. All right. And that -- that's a portion of
17 that bullet point. Are you aware that Braun is
18 four-foot six?

0:41:27

19 A. Yes.

20 Q. Yes. Is it abnormal for an adult to be
21 four-foot six?

22 A. That's certainly short-statured for an adult.

0:41:36

23 Q. Is that consistent with rickets?

24 A. Yes. A short stature is -- could be one of
25 the residuals of rickets.

0:41:48

1 Well, let me back up. Of X-linked
2 hypophosphatemia.

3 Q. Okay. And then a little bit farther down in
4 that paragraph.

0:42:04

5 It's about midway through the paragraph that
6 starts with the number 1.

7 A. Okay.

8 Q. It says (as read): On 6/17/21, nearly
9 two months after the end of the EP, and 8/3/21, Dr.
10 Geringer noted pain with range of motion of the hips,
11 knees, and right shoulder without warmth, erythema, or
12 swelling; nonspecific decrease in cervical/lumbar
13 mobility was described.

0:42:35

14 Did you -- did you write that?

15 A. I did.

16 Q. And does EP mean elimination period?

0:42:44

17 A. Let me back up. Yes.

18 Q. Is pain with range of motion abnormal?

19 A. Well, yes.

0:43:01

20 Q. Okay. And wouldn't the decrease in cervical
21 and lumbar mobility you noted constitute an abnormal
22 exam finding?

23 A. It's a nonspecific abnormal exam finding.

0:43:24

24 Q. And did you note that the 6/17/21 examination
25 took place nearly two months after the elimination

1 period because you believed that the exam findings were
2 not time relevant?

0:43:46

3 MS. HERRING: Objection. Form.

4 Go ahead, Doctor.

5 THE WITNESS: I -- I noted them because these
6 were sequential findings by the -- these physicians. I
7 mean, certainly I -- I -- I mean, I didn't say that
8 they were not time relevant.

0:44:07

9 But that certainly would come into
10 consideration when I'm reviewing her for the period of
11 the elimination period.

12 BY MR. MALONEY:

13 Q. Does it remain your opinion today that the
14 examination findings you reviewed were limited and not
15 consistent with a severe level of impairment?

0:44:29

16 A. For the period during the elimination period,
17 yes.

18 Q. You reviewed records that took place after
19 the elimination period. Correct?

0:44:44

20 A. That's correct.

21 Q. So is it your opinion today that those
22 records did not contain examination findings severe or
23 with a -- consistent with a severe level of impairment?

0:44:59

24 MS. HERRING: Objection. Form.

25 Go ahead, Doctor.

1 THE WITNESS: Even the findings after the
2 elimination period were nonspecific and did not
3 support, in my opinion, impairment during the
4 elimination period.

0:45:19

5 BY MR. MALONEY:

6 Q. If you could please turn to the next page,
7 719. And --

8 A. Okay.

9 Q. -- the first bullet point up towards the top
10 there.

0:45:33

11 Did you state that (as read):
12 Diagnostic testing/imaging did not identify structural
13 disease or other pathologic conditions consistent with
14 the severity of functional loss as reported by the
15 employee or with other indicators of impairment that
16 would preclude sedentary level activity?

0:45:52

17 MS. HERRING: And --

18 THE WITNESS: That's correct.

19 MS. HERRING: -- again, that's an -- that's
20 an incorrect reading of the bullet point.

0:45:56

21 BY MR. MALONEY:

22 Q. Does that bullet point also state, after
23 -- immediately after what I just read (as read):
24 (Defined in the Referral question - see below)?

0:46:07

25 A. That's correct.

1 Q. Okay. All right. Now, if you could please
2 turn back to page 718. I apologize for all the -- the
3 flipping back and forth. But.

0:46:22

4 A. Okay. Sure.

5 Q. So at the -- the beginning of the second full
6 paragraph under the heading Analysis/Rationale.

7 A. Okay.

0:46:40

8 Q. Did you state that (as read):
9 Polyarticular degenerative joint disease was noted on
10 x-rays with moderate/severe findings in the left knee,
11 bilateral hips, and right shoulder; mild to moderate
12 multilevel degenerative changes in the axial spine.

0:46:59

13 A. I did.

14 Q. Aren't those x-ray findings objective
15 evidence of a structural disease?

16 A. They -- they are structural disease but not
17 necessarily impairing.

0:47:12

18 Q. But they serve as evidence of a structural
19 disease.

20 A. It -- it -- they do represent structural
21 disease.

0:47:24

22 Q. Okay. And back to page 719 now. The second
23 bullet point up towards the top there.

24 Did you note that (as read): Bilateral
25 knee x-rays 2/23/21 showed moderate to severe OA of the

1 left knee, primarily involving the medial compartment
2 with near bone-on-bone degenerative changes.

0:47:50

3 Mild to moderate OA of the right knee was
4 noted, and bilateral bowing of the proximal tibia was
5 consistent with the insured's hx of rickets.

6 A. I did.

0:48:04

7 Q. Does OA mean osteoarthritis?

8 A. That -- that's correct.

9 Q. And hx means history?

0:48:11

10 A. That's correct.

11 Q. Okay. Don't those x-ray findings serve as
12 evidence of a structural disease?

0:48:20

13 A. They represent structural disease but not
14 necessarily impairing structural disease.

15 Q. You also mention bowing in that sentence.
16 Can you explain what that is, please?

0:48:35

17 A. Well, this is from the radiology report. But
18 bowing would be a -- a -- a -- what we call a varus or
19 a -- bowlegged is a former term, but a -- a varus
20 deformity of the knees.

0:48:51

21 Typically it's a congenital developmental
22 issue related to this or other similar conditions.

23 Q. And is bowing evidence of a structural
24 disease?

25 A. It -- it's evidence of a congenital

Page 42

1 deformity, again, not necessarily an impairing
2 structural disease.

0:49:12

3 Q. Sure. Do you see No. 1 there in that
4 paragraph after the second bullet point?

5 A. Okay.

0:49:26

6 Q. Did you state that (as read): Bilateral
7 hip x-rays 2/23/21 showed moderate to severe DJD of
8 both hips. Femoral bowing was consistent with the
9 employee's history of rickets.

0:49:39

10 A. Yes. I wrote that.

11 Q. Okay. And are those findings evidence of a
12 structural disease?

0:49:47

13 A. Again, they're representative of structural
14 disease, though not necessarily impairing.

15 Q. Is there a finding more significant than
16 severe when assessing osteoarthritis?

0:50:00

17 A. Are -- are you speaking in just general
18 clinical terms or what a radiologist might write or --

19 Q. So it's documented that the x-rays showed
20 moderate to severe degenerative joint disease of both
21 hips. Is there --

0:50:19

22 A. Right.

23 Q. -- a level past severe that those findings
24 can reveal, or is severe -- or -- I'll leave the
25 question at that.

0:50:27

1 A. I -- I mean, a radiologist might write very
2 severe. But typically, these are graded as none, mild,
3 moderate, or severe.

4 Q. Okay. And then No. 2 right after that.
5 Did you document that (as read): Right shoulder x-ray
6 2/23/21 showed moderate osteoarthritis.

0:50:51

7 A. Yes.

8 Q. Is -- is that x-ray result evidence of a
9 structural disease?

10 A. It -- it's structural disease. Again,
11 though, not necessarily impairing regarding her
12 occupational demands.

0:51:03

13 Q. And No. 3 there. Did you document that
14 (as read): Cervical spine x-ray 2/15/20 showed mild
15 degenerative changes.

16 A. Yes.

0:51:16

17 Q. Did you mean to list the date as 2/15/21?

18 A. Oh. No. I -- I -- I don't think so. I
19 think this was an -- a -- a type -- typographical
20 error.

0:51:28

21 I think her cervical spine films were taken
22 at the same time as her lumbar spine films.

23 Q. Okay. And are those x-ray findings evidence
24 of a structural disease?

0:51:42

25 A. Yes. And again, not necessarily impairing.

1 Q. Sure. And -- let's see. Number 4 right
2 after that.

0:51:54

3 Did you state that (as read): Lumbar
4 spine x-ray 2/15/21 showed exaggerated lumbar lordosis
5 suggestive of diffuse idiopathic skeletal hyperostosis.

0:52:07

6 A. Yes. As well as there was no evidence of
7 fracture or compression deformity.

8 Q. Sure. Is that finding of exaggerated lumbar
9 lordosis objective evidence of a structural disease?

0:52:23

10 A. Yes. Again, not necessarily impairing.

11 Q. And let's see. So No. 5 there. Did you
12 note that (as read): Thoracic spine x-ray 2/15/21
13 showed multilevel degenerative changes.

0:52:43

14 A. Yes.

15 Q. And are those findings objective evidence of
16 a structural disease?

17 A. Yes. Again, although not necessarily
18 consistent with impairment.

0:52:56

19 Q. Sure. And No. 6 there. Did you note
20 that (as read): DEXA scan 2/15/21 showed osteopenia.

21 A. Yes.

0:53:08

22 Q. And what is osteopenia?

23 A. It's a low bone density compared to normal.
24 It's between normal and osteoporosis.

0:53:18

25 Q. Okay. And is that DEXA scan result objective

1 evidence of a structural disease?

2 A. It -- it -- it's -- it's a general comment on
3 the -- the bone density, not necessarily specific
4 structural disease.

0:53:37

5 Q. Sure. Does it remain your opinion today that
6 diagnostic testing did not identify a structural
7 disease or pathologic condition consistent with
8 disability?

0:53:55

9 MS. HERRING: Objection. Form. That
10 misstates the opinion.

11 Go ahead, Doctor.

0:53:59

12 THE WITNESS: Right. Again, I don't assess
13 disability. I -- I assess function and impairment and
14 those type things. But I -- I still -- yes.

0:54:07

15 I would hold that these findings, you know,
16 did not identify a -- a -- were not consistent
17 categorically with functional loss or impairment that
18 would preclude her from performing her occupational
19 demands as were identified to me.

0:54:26

20 BY MR. MALONEY:

21 Q. Do you consider a disability claimant's
22 self-reported symptoms when considered appropriate
23 restrictions and limitations?

24 A. I do.

0:54:39

25 Q. So you would've considered Braun's reports of

1 pain pursuant to your opinion?

2 A. Yes.

3 Q. All right. If you could look at page 718,
4 please, and I think this is the last time you'll have
5 to flip back.

0:54:55

6 A. No, that's -- that's -- that's okay. I'm --
7 it's -- again, I'm looking at a third of the screen
8 here, so --

9 Q. Yeah. Right.

10 A. -- bear with me. So --

11 Q. Yeah.

12 A. -- let's see. 718. Okay.

13 Q. It says in a -- that second large paragraph
14 there, looks --

15 A. Oh, okay.

0:55:12

16 Q. -- like two sentences in or so. Did you
17 state that (as read): On 2/2/2021, New Patient OV, Dr.
18 Geringer noted that the employee reported constant pain
19 in the neck, back, shoulders, hips, knees, and ankles
20 with join pains since childhood.

0:55:31

21 A. Yes.

22 Q. And does OV mean office visit?

23 A. Yes. Outpatient visit, office visit --

24 Q. Sure.

25 A. -- correct.

0:55:40

1 Q. Did you also document that (as read):

2 On 2/25/21, Dr. DeForest noted that the insured

3 reported back pain and chronic pain in all joints.

0:55:52

4 A. Yes.

5 Q. Did you document that (as read): On

6 3/18/21, Dr. DeForest noted that the employee reported

7 pain all over.

8 A. Yes.

0:56:07

9 Q. Okay. Now, if you can go back to page 719,
10 please. The final bullet point down at the very bottom
11 there.

0:56:21

12 A. Okay.

13 Q. Did you state that Braun's (as read):

14 Reported activities were consistent with the employee
15 having the capacity to perform sedentary level
16 activity.

0:56:30

17 A. Let me find that. This is on 719?

18 Q. Yeah, at the very bottom.

0:56:38

19 A. Oh, I see. Yes.

20 Q. Okay. And if you can please turn to page
21 720.

22 A. Okay.

0:56:49

23 Q. At the very top of the page.

24 A. Right.

25 Q. Did the activity you relied on include

1 (as read): Employee reported caring for her dogs,
2 cleaning, dusting, sweeping/mopping, gardening five to
3 30 minutes, using a self-propelled push mower, reading,
4 listening to tapes, watching TV, checking emails, and
5 sitting at a computer for 15 minutes.

0:57:16

6 A. Yes.

7 Q. Could you please turn your attention to
8 what's been marked as Exhibit No. 4?

9 A. Okay. Pull this up.

0:57:29

10 (Exhibit No. 4 marked for identification.)

11 BY MR. MALONEY:

12 Q. It's --

13 A. Yeah.

14 Q. -- the bottom --

15 A. Okay.

16 Q. -- Bates stamp starts with 160.

0:57:36

17 A. Okay.

18 Q. Do you know what this document is?

19 A. It looks like -- let me go back to the top.

20 It looks like a phone call -- yeah, it looks like with
21 the -- one of the claims specialists. And -- and the
22 claimant.

0:57:57

23 Q. Sure. And on page 163, do you see where it
24 states Activities Discussion near the top of the page?

25 A. Okay. Right.

0:58:09

1 Q. Is this where you obtain the activities that
2 Braun engaged in for your opinion? Did you get those
3 from this document?

4 A. Yes. It would've been. 0:58:20

5 Q. Okay. Let's see. So in the second
6 paragraph there, under Activities Discussion, does it
7 state that (as read): Braun puts dogs out, then feeds
8 them, then goes back to bed for one hour. 0:58:35

9 A. For some leisure and then gets up and does --

10 Q. For some leisure --

11 A. -- PT exercises -- 0:58:40

12 Q. -- yes.

13 A. -- right. Yes.

14 Q. Yes. Did you include in your report that
15 Braun goes back to bed after feeding her dogs? 0:58:51

16 A. No.

17 Q. In the third paragraph there, does it
18 state that (as read): Day consists of cleaning,
19 dusting, mopping the floor, dry mop with squirt
20 solution so doesn't have to wring it out, sweeping. 0:59:07

21 If nice, may garden for five to 30 minutes,
22 uses self-propelled push mower for small garden. Then
23 has to stop and rest, lay down if back is hurting. 0:59:17

24 A. Yes.

25 Q. Did you include in your opinion that Braun

1 must stop and rest after those activities?

2 MS. HERRING: Well, objection. Form.

0:59:30

3 Go ahead, Doctor.

4 THE WITNESS: I -- I -- I -- I listed the

5 activities. I -- I didn't list all of them

6 necessarily. But certainly acknowledged that she

7 states that she had to rest on occasion.

0:59:44

8 BY MR. MALONEY:

9 Q. Sorry. Just to clarify. Did you document in

10 your report that she stops and rests after the

11 activities --

12 A. No.

0:59:51

13 Q. -- I just read? No.

14 A. No.

15 Q. Okay. Did you omit from your report that

16 Braun must lie down if her back is hurting?

1:00:01

17 MS. HERRING: Objection. Form,

18 characterization.

19 Go ahead, Doctor.

1:00:06

20 THE WITNESS: Well, I -- I -- I -- I listed

21 her activities. I -- I did not include that she lies

22 down.

23 BY MR. MALONEY:

24 Q. Did you state in your report that Braun may

25 garden only if it's nice out?

1:00:24

1 A. No. I summarized it that she gardens for
2 five to 30 minutes.

3 Q. Okay.

4 A. No, I didn't characterize every day or -- or
5 how often. Just that she does this. 1:00:40

6 Q. Sure. Does it state in this document
7 marked as Exhibit 4 that Braun (as read): Reads,
8 listens to books on tape, watches TV, and checks
9 emails. 1:01:03

10 A. Let me find that.

11 Q. Yeah. And --

12 A. So --

13 Q. -- that would be in the third paragraph
14 there, immediately after what we just discussed. 1:01:12

15 A. Reads, listen -- watches TV, checks emails,
16 sits at computer for 15 minutes. Yes.

17 Q. Okay. Is Braun's ability to read irrelevant
18 to her physical capabilities? 1:01:26

19 MS. HERRING: Objection. Form.

20 THE WITNESS: Well, it's one of her
21 activities, and her activities are relevant to her
22 overall capacity. 1:01:39

23 BY MR. MALONEY:

24 Q. But does the fact that she reads indicate
25 what physical capability she possesses?

1 A. In and of it itself, reading -- there -- her
2 capacity to read would not necessarily indicate that
3 she has the capacity to perform her occupational
4 demands.

1:02:03

5 Q. Does the ability to listen to books on tape
6 speak to Braun's physical capabilities?

7 A. Again, I assess all of her activities when I
8 consider whether they support or don't her capacity to
9 do her occupational demands.

1:02:26

10 In -- in isolation, the capacity to listen to
11 a book on tape would not necessarily indicate that she
12 could perform her occupational demands.

13 Q. Does the fact that she watches TV speak to
14 her physical capabilities?

1:02:41

15 A. Like the others, in isolation, watching TV
16 does not necessarily indicate that she can or cannot
17 perform her occupational demands.

18 Q. And what about the ability to check emails?
19 Does that speak to Braun's physical capabilities?

1:03:04

20 A. And -- and I'll back up. All those things
21 speak to some physical capabilities, whether she can
22 see, whether she can, you know, manipulate a mouse,
23 whether she can turn on a TV, or whether she can hear.

1:03:19

24 But in and of itself, checking emails does
25 not indicate that she does or does not have the

1 capability to perform her occupational demands.

2 Q. Okay. Does it state -- let's see --
3 immediately after that that Braun sits at computer for
4 15 minutes?

1:03:41

5 A. Yes.

6 Q. And then in the fourth paragraph immediately
7 following that. Excuse me.

1:03:52

8 Does it state (as read): Unless laying
9 down, has to change position every 20 to 30 minutes to
10 provide relief to any one body part (feet, knees,
11 back).

1:04:03

12 A. It -- it does say that.

13 Q. Did you include that statement in your
14 report?

15 A. No. I didn't.

1:04:13

16 Q. And then in the eighth paragraph, which is
17 the second to last one before it lists Vocational
18 Discussion. Do you see that?

1:04:27

19 A. Okay. Right.

20 Q. Okay. Does it state (as read):
21 Employee can no longer knee to garden, employee's
22 nieces do the in-ground planting for employee now.
23 Nephews will do any heavy pruning.

1:04:40

24 A. Yes. I see that.

25 Q. Did you include that information in your

1 report?

2 A. Because those things weren't relevant to her
3 occupational demands, no.

1:04:54

4 Q. Okay. Does the inability to sit for more
5 than 15 minutes at once and need to change positions
6 every 20 to 30 minutes -- is that inconsistent with the
7 ability to perform sedentary work?

1:05:14

8 MS. HERRING: Objection. Form.

9 Go ahead, Doctor.

10 THE WITNESS: Well, if we back up to the
11 occupational demands that I was asked to review it
12 against -- and -- and I'll turn to that.

1:05:30

13 And -- well, it's not in this -- but the
14 occupational demands I think specifically list that she
15 has the capacity to change positions periodically
16 during the day.

1:05:43

17 So for her to sit 15 minutes and then switch
18 positions or change her posture would be consistent
19 with having the capacity to perform the demands that
20 were given to me to assess.

1:06:01

21 BY MR. MALONEY:

22 Q. Okay. Would you please turn to what's been
23 marked as Exhibit No. 5?

24 A. Okay. Hang on just a second. Okay.

1:06:17

25 (Exhibit No. 5 marked for identification.)

1 BY MR. MALONEY:

2 Q. Do you know what these documents are?

3 A. They -- they look like supporting statements
4 from relatives or friends, acquaintances.

1:06:31

5 Q. Did you review these statements when forming
6 your opinion?

7 A. I -- I did.

8 Q. So on the first page there, 693, is that a
9 statement from Braun's niece, Renee Thornton?

1:06:48

10 A. That's -- that's what the first sentence
11 says. Or second sentence, rather.

12 Q. Sure. And then in the third paragraph there
13 in the middle.

1:07:00

14 A. Okay.

15 Q. Did Ms. Thornton indicate that (as
16 read): Since going on permanent disability, I see
17 Tammy's back, neck, and knee pain becoming worse and
18 worse as time progresses, rather than becoming less.

1:07:16

19 A. That's what she stated.

20 Q. And in the final paragraph, did Ms. Thornton
21 indicate that Braun gardens in maybe 30-minute stints,
22 with hours of rest between, and most days, she does not
23 do any gardening at all due to back pain?

1:07:34

24 A. That -- that's -- that's what Ms. Thornton
25 stated.

1 Q. Did you include that in your report?

2 A. I considered it, but I didn't include in my
3 writing in my report. No.

1:07:47

4 Q. And then the final paragraph there. Did
5 Ms. Thornton document that (as read): Regarding
6 housework, just vacuuming and mopping floors once a
7 week takes hours, with no laundry, dusting, or other
8 tasks accomplished.

1:08:03

9 She often must stop working and lay down --
10 lay on her bed, due to back pain.

11 A. And -- and again, I see that Ms. Thornton
12 wrote that. I considered her statement.

1:08:17

13 But as a -- as not being a medical
14 professional and with some of those activities not
15 relevant to the occupational demands I was asked to
16 assess, I -- I didn't include these statements in my
17 review.

1:08:31

18 Q. In your review, discussing Braun's
19 activities, did you list the activities of, quote,
20 cleaning, dusting, sweeping/mopping?

21 A. Yes. I did.

1:08:45

22 Q. Okay. If you could please turn to page 694.
23 Do you know what this document is?

24 A. 694. Yeah. Oh. So it looks like a
25 statement from the Claimant. July 7th, 2021.

1:09:04

1 Q. Okay. And then could you please turn to page
2 695 immediately following that? Do you see towards the
3 bottom where it states, "What I cannot do?"

1:09:15

4 A. Yes, I do.

5 Q. And at the sixth bullet point, did Braun
6 state that she cannot lift any weight heavier than
7 around 6 pounds without shoulder, back, and neck pain?

1:09:28

8 A. I -- I see the statement.

9 Q. So she did state that in the document?

10 A. It -- it appears she stated that in the
11 document. That's what I see.

1:09:39

12 Q. Okay. On the seventh bullet point
13 immediately after that, did Braun state that she cannot
14 stand in place for more than five minutes without knee
15 and then back pain?

1:09:51

16 A. Yes.

17 Q. In the ninth bullet point, which is the last
18 one on the page there, did Braun state that she cannot
19 sit for more than 15 to 20 minutes without stiffening
20 up and difficulty walking when I stand?

1:10:11

21 A. Yes. She stated that.

22 Q. Did you include any of those reported
23 limitations in your report?

1:10:19

24 A. I -- I don't recall exactly how I worded my
25 report. I certainly included that she reported

1 multiple symptoms. I didn't specifically include
2 these.

1:10:33

3 As again, some of these are and some are not
4 relevant to the occupational demands that I was
5 provided.

6 Q. Is Braun's ability to lift any weight heavier
7 than around 6 pounds irrelevant to her occupational
8 demands?

1:10:48

9 MS. HERRING: Objection. Form,
10 characterization.

11 Go ahead, Doctor.

1:10:53

12 THE WITNESS: The lifting is relevant. Her
13 physician said she could lift 8 pounds. And
14 examinations didn't show that she had significant
15 weakness that would limit her to anything less than 10
16 pounds in her -- in -- in the medical records.

1:11:14

17 And so again -- and I'll look at not just
18 this statement but many other factors in the claim file
19 when I decide what to put in the background for my
20 opinion.

1:11:29

21 BY MR. MALONEY:

22 Q. Sure. Is Braun's reported inability to sit
23 for more than 15 to 20 minutes irrelevant to her
24 occupational demands?

25 MS. HERRING: Objection. Form,

1 characterization.

1:11:39

2 Go ahead, Doctor.

3 THE WITNESS: It -- you know, the specific
4 times that she would have to sit, I would defer to a
5 vocational expert. But the demands that were given to
6 me indicated that she could alternate periods of
7 sitting and changing her position.

1:11:58

8 So while relevant, I -- I didn't see that it
9 necessarily precluded.

10 BY MR. MALONEY:

11 Q. Sure. And if you could please turn to the
12 next page, 696. The third full paragraph in the middle
13 there.

1:12:19

14 Let's see. Did Braun state that (as
15 read): I can do little of the gardening that I love.
16 I engage family children to do anything requiring
17 lifting and digging, but even then, I have days where
18 it hurts just to hold a hose to water my plants.

1:12:33

19 A. She -- she did write that.

20 Q. Did you include those reported limitations in
21 your medical opinion?

22 MS. HERRING: Objection. Form,
23 characterization.

1:12:44

24 Go ahead, Doctor.

25 THE WITNESS: I -- I did not include those.

1 Again, this was almost two and a half months after the
2 specific period that I was asked to review and did --
3 didn't seem to directly apply to my opinion for that
4 period.

1:13:04

5 BY MR. MALONEY:

6 Q. Sure. Did Braun also state in that
7 paragraph that (as read): Housekeeping is a constant
8 struggle, where I used to be able to whip through the
9 entire house in three to four hours, vacuuming,
10 scrubbing, washing, dusting. Now I settle for a much
11 less clean house.

1:13:23

12 A. Yes. That's in her statement.

13 Q. Did you include that in your report?

1:13:31

14 A. I did not include that specific statement for
15 the reasons I previously discussed.

16 Q. Sure. At the very bottom of this document,
17 did Braun swear under penalty of perjury that her
18 statement was true, accurate, and correct?

1:13:48

19 A. Yes.

20 Q. Do you have any reason to believe that Braun
21 is a malingerer?

22 A. No.

1:14:11

23 Q. Do you have any reason to believe that
24 Braun's reports of pain were not credible?

25 MS. HERRING: Objection --

1 THE WITNESS: No.

2 MS. HERRING: -- to form.

1:14:20

3 Go ahead, Doctor.

4 THE WITNESS: No.

5 BY MR. MALONEY:

6 Q. Were you aware of any changes in Braun's
7 condition after she ceased working?

1:14:30

8 A. Changes in her condition?

9 Q. Yes.

10 A. After she ceased working. Yes. She reported
11 to Dr. Geringer that she felt better after starting the
12 muscle relaxant.

1:14:42

13 At -- after a few visits of physical therapy,
14 she reported having no pain, only some symptoms when
15 walking on concrete. So overall, she did look like she
16 improved, during that elimination period even.

1:14:59

17 Q. Did you ever request to speak with Braun
18 directly?

19 A. No.

20 Q. Does it remain your opinion today that
21 Braun's pain was well-controlled?

1:15:14

22 A. I think she continued to have pain. I mean,
23 that is the -- the nature of degenerative joint
24 disease. So I believe that certainly that -- that
25 would be consistent with pain symptoms.

1:15:33

1 As far as her control, she had good control
2 of it toward the end of the elimination period and had
3 improved quite a bit.

4 Q. Does it remain your opinion today that
5 Braun's reported activities are consistent with the
6 ability to perform sedentary work?

1:15:54

7 A. I feel that her reported activities are
8 consistent with having a capacity to perform sedentary
9 work.

10 Q. Sure. And if you could please turn back to
11 Exhibit 1 --

1:16:11

12 A. Okay.

13 Q. -- which is your report. More specifically,
14 page 719.

15 A. 719.

16 Q. And I'm --

1:16:25

17 A. Okay.

18 Q. -- looking at the third bullet point there.
19 Let's see.

20 A. One, two, three. Okay.

1:16:33

21 Q. My apologies. Give me one quick second here.

22 A. Sure.

23 Q. Oh. Yeah. The third bullet point.

24 Does it state that or did you state that Braun's
25 treatment level (as read): Remained generally stable,

1 conservative, and of modest intensity without evidence
2 of a significant acceleration or advancement that would
3 expect -- that would be expected or consistent with
4 refractory/progressive symptoms or -- excuse me -- sx
5 or ongoing impairment. 1:17:19

6 MS. HERRING: Objection. Form. That was an
7 incomplete reading of the sentence.

8 Go ahead, Doctor. 1:17:23

9 THE WITNESS: Yes. That first sentence of
10 the bullet. But I also said, "Through the EP as
11 beyond."

12 BY MR. MALONEY:

13 Q. Sure. Does sx mean symptoms? 1:17:39

14 A. Symptoms. That's correct.

15 Q. Okay. Now, if you could please go back to
16 Exhibit No. 5, the -- 1:17:49

17 A. All right.

18 Q. -- statements prepared by Ms. Thornton and
19 Ms. Braun.

20 A. Okay. 1:17:56

21 Q. More specifically, page 695 and --

22 A. Okay.

23 Q. -- the first bullet point there up at the
24 top.

25 A. And -- and whose statement is this? 1:18:09

1 Q. Oh. Braun's.

2 A. Oh, okay.

3 Q. Thanks --

4 A. Okay, July --

5 Q. -- for clearing -- 1:18:14

6 A. -- July 7th, 2021.

7 Q. Yes.

8 A. Okay. And where are we again?

9 Q. The very top of the page, the first bullet
10 point. 1:18:22

11 A. Okay.

12 Q. Does that state that (as read): Due to
13 hypophosphatemia, I cannot have any joint replacements,
14 as my bones will not heal, or would take years to heal. 1:18:34

15 Did you include that statement in your
16 report?

17 A. No.

18 Q. And then -- let's see. And the last full
19 paragraph on that page, right before where it says,
20 "What I cannot do." 1:18:49

21 A. Okay.

22 Q. Okay. Did Braun state that (as read):
23 I cannot financially engage any new specialists, with
24 my small income.

25 A. Well, the -- the entire statement would

1 be (as read): He advised me -- he, Dr. Geringer --
2 advised me to consult with a back doctor to further
3 investigate that -- which refers to her back pain --
4 the sensation of bugs on my back and the neuropathy,
5 but I cannot financially afford to engage any new
6 specialists, with my small income.

1:19:25

7 Q. Okay. And did you include that information
8 in your report?

9 A. No.

10 Q. Okay. If you could please turn to Exhibit
11 No. 6 now.

1:19:40

12 A. 6.

13 (Exhibit No. 6 marked for identification.)

14 BY MR. MALONEY:

15 Q. On --

16 A. I gotta -- hang on just a second.

1:19:47

17 Q. Take your time.

18 A. Okay.

19 Q. Do you know what this document is?

20 A. It's my letter to Dr. DeForest after an

21 attempt to call --

1:20:08

22 Q. Okay.

23 A. -- him. Yes.

24 Q. So did you -- you drafted this letter?

25 A. I -- I did.

1:20:14

1 Q. If you could please turn to page 724 --

2 A. Mm-hmm.

3 Q. -- more specifically, question No. 3. 1:20:23

4 A. Okay.

5 Q. You --

6 A. Okay.

7 Q. -- state that (as read): If Ms. Braun
8 had wanted to work as of 1/26/21 forward, was there a
9 medical reason why she should not have done so? What
10 reason and why? 1:20:33

11 A. Right.

12 Q. Is it your medical opinion that disability is
13 a matter of choice?

14 MS. HERRING: Objection. Form.

15 Go ahead, Doctor. 1:20:43

16 THE WITNESS: Well, again, I -- I wasn't
17 assessing her disability overall. But impairment in
18 this case may or may not -- pardon me. 1:21:04

19 I just got a message my battery's running
20 low. But impairment may or may not be related to some
21 of the clinical information. 1:21:19

22 In -- in other words, there may be some
23 findings on an x-ray and the person may still be able
24 to work if they choose to. And my attempt with this
25 question is to sort out whether the physician was

1 basing his recommendations for restrictions/limitations
2 on just simply x-ray findings or say other diagnostic
3 findings or whether it -- it's -- he's looking at the
4 entire picture of the reported symptoms as well as
5 other findings. 1:21:54

6 BY MR. MALONEY:

7 Q. Is it your medical opinion that Braun does
8 not want to work?

9 MS. HERRING: Objection. Form. 1:22:03

10 Go ahead, Doctor.

11 THE WITNESS: I -- I didn't see any evidence
12 in the file to indicate that.

13 BY MR. MALONEY:

14 Q. Now, if you could please turn to Exhibit No.
15 7. 1:22:13

16 THE WITNESS: Would it be possible to take a
17 quick break and --

18 MR. MALONEY: Yeah.

19 THE WITNESS: -- me search and see if I've
20 got a charger here I can bring in the room? 1:22:26

21 MR. MALONEY: Sure.

22 THE WITNESS: And -- and -- and do that?
23 Maybe five minutes? Is that -- is that okay with --

24 MR. MALONEY: Sure --

25 THE WITNESS: -- everybody? 1:22:32

1 MR. MALONEY: -- yeah. Whatever you need.

2 Five, ten minutes, whatever.

3 MS. HERRING: And Doctor, you can turn the

4 video and the mute -- video off and mute on while

5 you're on --

1:22:40

6 THE WITNESS: Okay.

7 MS. HERRING: -- break. Thank --

8 THE WITNESS: Great.

9 MS. HERRING: -- you.

10 THE WITNESS: Great. I'll do that. I

11 appreciate that. Thank you.

1:22:44

12 THE RECORDER: Okay. Off the record at 11:24

13 a.m.

14 (Off the record)

15 THE RECORDER: We are back on record at 11:40

16 a.m.

1:22:52

17 BY MR. MALONEY:

18 Q. Doctor, could you please turn your attention

19 to what's been marked as Exhibit No. 7?

1:23:00

20 A. Okay.

21 (Exhibit No. 7 marked for identification.)

22 BY MR. MALONEY:

23 Q. And do you know what this document is?

1:23:06

24 A. Hang on just a second. Let me pull it up.

25 Q. Sure.

1 A. Oh, yes. It's an addendum that -- that I
2 wrote.

1:23:19

3 Q. Do you know approximately how much time you
4 spent drafting this report?

5 A. I -- I -- I imagine a couple hours. One --
6 one to two hours. I don't recall exactly.

1:23:35

7 Q. Sure. Does Unum provide you with all the
8 documents a claimant submits in response to your
9 initial file reviews?

10 A. As -- such as if they receive documents
11 subsequent to my file review?

1:23:53

12 Q. Yes. Do you -- do they make those available
13 to you when you drafting the addendum opinion?

14 A. Yes.

15 Q. Okay. So you consider everything a claimant
16 submits when rendering your addendum opinion?

1:24:10

17 A. Everything that's provided to me. Yes.

18 Q. All right. And you consider it. When you're
19 drafting the addendum.

1:24:17

20 A. Yes.

21 Q. Okay. If you could please turn to Exhibit 8.

22 A. Exhibit 8.

23 (Exhibit No. 8 marked for identification.)

24 BY MR. MALONEY:

25 Q. This starts with Bates stamp 782.

1:24:37

1 A. Okay.

2 Q. Do you know what these documents are?

3 A. It -- this looks like a letter from the

4 Claimant's attorney, dated 7 January 2022.

1:24:58

5 Q. And did you review all the documents that
6 accompanied this letter?

7 A. I -- I -- I -- I -- I would have if they were

8 -- if -- if they were submitted in the file. Yes.

1:25:14

9 Q. Okay. If you could please turn to page 803.

10 A. 803.

11 Q. Is this a portion of the letter that you sent
12 to Dr. DeForest on October 26th, 2021?

1:25:42

13 A. Page 803 looks like it's a portion of it.

14 And he -- he signed that on the 12th of December.

15 Looks like 2021.

16 Q. For question No. 1, the prompt read (as
17 read): Did Ms. Braun have the physical capacity to
18 perform sustained, full-time sedentary level
19 occupational activity described above as of 1/26/21
20 through 4/25/21 and beyond?

1:26:18

21 How did Dr. DeForest respond to that
22 question?

23 A. He stated, "No."

24 Q. If you could please turn to page 805.

1:26:28

25 A. Okay. 805. Okay.

1 Q. Question No. 14 towards the bottom of
2 that form. It states (as read): Able to RTW with
3 accommodations or restrictions. Please specify. 1:26:46

4 Does RTW mean return to work?

5 A. Yes. That -- that would be my understanding. 1:26:53

6 Q. Did Dr. DeForest respond by stating (as
7 read): None. Degenerative nature of illness makes
8 return to work impossible.

9 A. He -- he did in Section 14. He also noted a
10 last visit of November 2nd, 2021, which I didn't have,
11 so. 1:27:14

12 Q. Sure.

13 A. And I -- and I would say, as far as return to
14 work, he didn't specify whether he's talking about the
15 elimination period that I was asked to look at or some
16 other date. 1:27:34

17 Q. Sure. If you could please turn to page 788.

18 A. 788. Back up.

19 Q. And -- and then from 788 to page 790, do you
20 know what that document is? 1:28:00

21 A. Hang on just a second, please. Okay. So
22 this looks like a -- a -- a -- a letter from the
23 Claimant's attorney to Dr. DeForest. Okay. And then
24 -- 1:28:30

25 Q. And --

1 A. -- another response to what looks like a -- a
2 partial -- a -- an excerpt of my letter to him. And
3 this one's dated -- his response is -- well, he doesn't
4 have a date on it.

1:28:48

5 The attorney letter to him is dated 30
6 December 2021.

7 Q. And then if you turn to page 790.

8 A. Okay.

9 Q. Does it state or did Dr. DeForest sign --

1:29:02

10 A. Oh, I see --

11 Q. -- page --

12 A. -- he -- he did sign -- yeah, it looks like
13 he signed it on 31st of December 2021. Okay.

1:29:10

14 Q. Okay. And back on page 789.

15 A. Okay.

16 Q. More specifically, question No. 2, which
17 reads (as read): Please identify specific
18 restrictions, i.e., activities that Ms. Braun should
19 not have performed, and or limitations, i.e. activities
20 that Ms. Braun could not have performed, and briefly
21 explain your clinical rationale in support of such
22 restrictions and/or limitations.

1:29:41

23 Did Dr. DeForest respond to that by
24 stating that (as read): Braun suffers with
25 polyarticular DJD, arthritis, due to hypophosphatemia.

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1 She's unable to sit, stand, or walk more than 15 to 20
2 minutes at a time due to severe pain.

1:29:59

3 Virtually all of her joints are affected by
4 this condition.

5 A. He -- he -- he did.

1:30:06

6 Q. Then it could please turn to page 791. Do
7 you know what this document is?

8 A. Oh, let me see. It -- it looks like a letter
9 or statement from the Claimant dated 4th of January
10 2022.

1:30:32

11 Q. In the third paragraph, did Braun indicate
12 that she experienced back pain while typing this
13 statement?

14 A. Yes. She said -- you -- she said (as
15 read): As I sit here at my computer, my back pain is 9
16 to 10.

1:30:52

17 Q. And do you understand that as a -- out of a
18 10-point scale that she --

19 A. Well, it's very -- it -- very severe.

1:31:03

20 Q. Sure. Then the fourth paragraph. Did
21 Braun state that she could not undergo surgery because
22 her bones simply do not heal in a timely fashion and
23 (as read): Any cutting into 61-year-old bones would
24 likely result in splintering of the cut site, making
25 whatever was wrong, dramatically worse.

1:31:25

1 A. She stated this. Her physicians did not echo
2 that.

3 Q. Okay. In the fifth paragraph, did Braun
4 state that she could not seek pain treatment because
5 she cannot afford it?

1:31:40

6 A. Let me find that statement. I -- so
7 you're referring to the statement (as read): I would
8 like very much to go to a pain management clinic with
9 the specific goal of discussing alternatives to pain
10 medicine such as acupuncture, massage, targeted TENS
11 therapy, etc.

1:31:59

12 She -- she stated that. Yes.

13 Q. Okay. Did she also state (as read): I
14 am simply unable to afford that treatment. I also
15 discussed with Dr. Geringer the need to keep pain
16 medication at a minimum, because of their lack of
17 effectiveness over time.

1:32:12

18 A. She did state that.

19 Q. In the sixth paragraph, did Braun indicate
20 that her pain increased dramatically despite minimal
21 household activity?

1:32:25

22 A. Yes, she did.

23 Q. And then in the seventh paragraph right
24 after that, regarding her use of a lawn mower, did
25 Braun state that (as read): My intermittent use of a

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1 self-propelled lawn mower is also exaggerated. 1:32:44

2 I have two small patches of lawn that take
3 six minutes each, when I was forced to mow this summer
4 because I could not afford to pay the boys that
5 normally mow for me. 1:32:53

6 I mowed each small patch four times in 2021.
7 Afterwards, I needed to rest for several hours in a
8 prone position each time.

9 A. Yes. She wrote that. 1:33:03

10 Q. At the bottom of this document, did Braun
11 indicate under penalty of perjury that her statement
12 was true and correct?

13 A. Yes.

14 Q. If you could please turn to the next page,
15 792. 1:33:18

16 A. Okay.

17 Q. Do you know what this document is?

18 A. Let me look at it. It -- it looks like a
19 self-reported pain or symptom log, starting October
20 26th, 2021, which would've been about six months after
21 the end of the elimination period, through November
22 3rd, 2021. 1:33:50

23 Q. Does this document indicate that Braun
24 experienced back pain every one of those days?

25 A. If -- if I can take a minute and look at -- 1:34:06

1 Q. Sure --

2 A. -- at it.

3 Q. -- yeah, take your time.

4 A. Certainly on the 27th she notes back pain.

5 Back pain on the 28th.

1:34:15

6 Back pain on the 29th. Back pain on the
7 30th. Let's see. Back pain on the 31st. Back pain on
8 the 1st. And shopping -- it looks like she had some
9 back pain on the 2nd.

1:34:50

10 And on the 3rd. Back pain on the 3rd. Yes.
11 Of November. Yes.

12 Q. Did Braun report poor sleep due to back pain
13 on October 30th, 2021?

1:35:08

14 A. On October 30th -- October 30th. Poor
15 night of sleep. She stated (as read): Poor night of
16 sleep, back pain again on rising.

17 Yes.

1:35:23

18 Q. Okay. If you could please turn to page 795.
19 Do you know what this document is?

20 A. Let's see. It's a -- okay, it looks like an
21 x-ray of her foot on the 22nd of December 2021.

1:35:56

22 Q. Was the impression of that -- of those x-rays
23 multifocal degenerative changes bilaterally?

24 A. Yes.

25 MS. HERRING: Objection. Form. That was

1 only a partial review of the impression.

1:36:10

2 BY MR. MALONEY:

3 Q. Can multifocal degenerative changes be
4 associated with pain?

5 A. And again, and the Impression included also
6 no acute fracture or dislocation bilaterally.

7 Q. Right.

1:36:27

8 A. So multifocal degenerative changes could be
9 associated with pain. Yes.

10 Q. On page 797, can you please tell me what that
11 document is?

1:36:44

12 A. Let me see. This looks like a bilateral hand
13 x-ray taken on the 22nd of December 2021.

14 Q. And was the first impression of that testing
15 scattered areas of faint mineralization bilaterally?

1:37:12

16 A. Yes.

17 Q. Can those findings be associated with pain?

18 A. Faint -- faint mineralization in and of
19 itself I don't typically think of as associated with
20 pain unless there is an associated injuries with it.

1:37:33

21 Q. And for the second impression, does it
22 state that (as read): Degenerative changes of the
23 joints of the hand are seen bilaterally, most prominent
24 at the bilateral triscaphe joints and interphalangeal
25 joints of the thumbs.

1:37:51

1 A. Yes.

2 Q. Can those findings be associated with pain?

3 A. They can be. A -- a wide variety of pain
4 symptoms.

1:37:59

5 Q. If you could please turn to page 799.

6 A. Okay.

7 Q. And could you please tell me what that
8 document is?

1:38:07

9 A. It looks like -- you say 799? Yes.

10 Q. Yes.

11 A. That's a left shoulder x-ray, again dated
12 December 22nd, 2021.

1:38:20

13 Q. Does the second impression state moderate
14 osteoarthritis of the left shoulder?

15 A. It does.

16 Q. Can that finding be associated with pain?

1:38:39

17 A. It can be associated with a wide range of
18 pain type symptoms. Or no pain.

19 Q. Does the third impression state (as
20 read): Mild bony demineralization with bowing
21 deformity of the proximal humerus, may be related to
22 clinical history of rickets.

1:38:58

23 A. Yes, it does.

24 Q. Can those findings be associated with pain?

25 A. It could be associated again with a wide

Page 79

1 range of reported pain symptoms. Or none. 1:39:12

2 Q. Sure. Could you please turn to page 801?

3 A. Let's see. Okay. Okay. 1:39:24

4 Q. Do you know what this document is?

5 A. MRI of the lumbar spine, and it's dated --
6 excuse me -- December 29th, 2021. 1:39:38

7 Q. Does the first impression state that (as
8 read): Redemonstrated anomalous appearance of the T10
9 and T12 vertebral bodies, likely representing butterfly
10 vertebra. 1:39:56

11 A. Yes, it does.

12 Q. What is butterfly vertebra?

13 A. Yeah, it's a -- a -- a -- named for the
14 butterfly shape, but it's a incomplete fusion of a -- a
15 part of the vertebral body. 1:40:17

16 And it typically would be a -- represent a
17 congenital type deformity.

18 Q. Can those butterfly vertebra be associated
19 with pain?

20 A. It could be associated with no pain or a wide
21 range of pain symptoms. Largely in that if there's
22 asymmetric development of one side or the other of this
23 vertebral body, it may or may not cause things like
24 scoliosis or something like that. 1:40:47

25 Q. Sure. Does the second impression list

1 (as read): Multilevel degenerative changes, as
2 detailed above.

3 A. Yes, it does.

1:40:58

4 Q. And can degenerative changes be associated
5 with pain?

6 A. Degenerative changes in the lumbar spine --

7 Q. Is it --

8 A. -- can --

9 Q. -- yes.

1:41:07

10 A. -- be associated with no pain or a wide range
11 of pain symptoms.

12 Q. Does the third impression -- impression
13 state (as read): Mild disc bulge at T10 to T11, only
14 partially visualized, with suspected severe bilateral
15 foraminal stenoses.

16 A. It does.

17 Q. What is foraminal stenosis?

18 A. Yeah, it's the -- the more complete name
19 would be a neural foramina, and it's essentially a
20 passageway that the nerve roots, the spinal cord nerve
21 roots, travel from the cord out into the body.

1:41:54

22 And so it's a passageway in this vertebral
23 complex, if you way -- will, that -- to -- to --
24 through which the nerve roots travel.

25 Q. And can that condition be associated with

1 pain?

1:42:08

2 A. It -- it can be associated with anywhere from
3 no pain to a wide range of pain symptoms.

4 Q. And does the fourth impression state (as
5 read): In the lumbar spine, favoring degrees of mild
6 to moderate foraminal stenoses bilaterally, overall
7 worse on the left, particularly at levels T12 to L1 and
8 L2 to L3.

1:42:33

9 Moderate foraminal stenosis at L5-S1 on the
10 right. No significant spinal canal stenosis.

11 A. You -- yes. That's what it says.

1:42:44

12 Q. And can those findings be associated with
13 pain?

14 A. And -- and -- and those findings could be
15 associated with no pain or a wide range of pain
16 symptoms. Sure.

1:42:57

17 Q. Is it your opinion today that those test
18 results do not corroborate Braun's reported pain?

19 MS. HERRING: Objection. Form,
20 characterization.

1:43:14

21 Go ahead, Doctor.

22 THE WITNESS: I -- I think these radiographic
23 findings certainly show some underlying degenerative
24 changes. But regarding her reported pain symptoms,
25 also in consideration of the clinical examinations and

1 some of her reported activities and just the intensity
2 of treatment, I -- I -- I look at those things as well
3 as just the radiographic findings.

1:43:50

4 Because again, as I noted, radiographic
5 findings can often be associated from a wide range of
6 either no pain to, you know, significant pain.

7 BY MR. MALONEY:

8 Q. Can you please turn to page 807?

1:44:04

9 A. Sure.

10 Q. Actually, 807 to 808, collectively.

11 A. Okay, yeah, I'm on -- I'm on 807 here. And
12 I'll -- I'll go on to 808.

1:44:32

13 Q. Sure. Could you tell -- on 808, could you
14 tell me what that document is?

15 A. It looks like it's a statement from Dr.
16 Geringer, presented by her -- her attorney's office.
17 Or a statement for review.

1:44:57

18 And -- and the -- the first question is
19 -- it -- it asks (as read): Do you retract your June
20 2nd, 2021 statement that Ms. Braun did not require work
21 restrictions?

1:45:06

22 And Dr. Geringer says, "Yes." And then
23 the second one is (as read): Has Ms. Braun remained
24 unable to work from January 25th, 2021 (the date she
25 first ceased working -- the date she first ceased

1 working) through the present?

1:45:23

2 And he answers, "Yes."

3 Q. Could you please go back to Exhibit No. 7,

4 which is your addendum report?

1:45:33

5 A. Okay. Okay.

6 Q. So after you reviewed that evidence, when you

7 conducted the addendum review, did you maintain your

8 initial opinion that Braun was capable of performing

9 sedentary work?

1:46:00

10 MS. HERRING: Objection. Form,

11 mischaracterization, misstating his opinion.

12 Go ahead, Doctor.

1:46:05

13 THE WITNESS: Okay. So let me -- let me

14 review this here quickly. I -- I -- I said, again (as

15 read): The additional medical evidence does not change

16 my prior opinion and does not support

17 restrictions/limitations that would've precluded the

18 insured from performing the sedentary occupational

19 demands, see below, continuously as of 1/26/21 through

20 4/25/21 and beyond.

1:46:37

21 BY MR. MALONEY:

22 Q. Okay. Then on page 836. Let's see. Towards

23 --

24 A. You --

25 Q. -- the top of the page.

1 A. All right.

1:46:49

2 Q. Do you see where it starts, "Recent x-ray
3 reports?"

4 A. Let's see. Yes. Uh-huh.

1:46:56

5 Q. Did you state that (as read): Recent
6 x-ray reports noted multifocal degenerative changes
7 consistent with prior records that were submitted and
8 reviewed.

1:47:06

9 These findings are longstanding and are not
10 categorically consistent with impairment.

11 A. Yes. That would preclude sedentary work with
12 allowances for changes in position for brief periods of
13 time throughout the day. Yes.

1:47:20

14 Q. And what did you mean by the word
15 "longstanding?"

16 A. Okay, by definition, these are degenerative
17 changes. They're not acute changes. They're not a
18 fracture. They're not an acute inflammatory condition.

1:47:33

19 And -- but degenerative joint disease -- it
20 -- it occurs over years. And so these changes were
21 certainly present in some of the x-rays.

1:47:44

22 Or she certainly had degenerative changes in
23 some of the x-rays that were taken during the
24 elimination period in I think it was February. And
25 then the -- those changes certainly represent, you

1 know, pathological process over years and years. 1:48:01

2 So that would be longstanding. They're
3 certainly present before the -- the disability.

4 Q. Okay. Is it your position that since those
5 findings were longstanding and Braun previously worked
6 through them, did you believe that she remained
7 disabled to work as of the elimination period? 1:48:33

8 MS. HERRING: Objection. Form.

9 BY MR. MALONEY:

10 Q. I can rephrase. Since Braun worked while
11 exhibiting those findings, did you believe that she
12 remained able to work at the time you formulated your
13 addendum opinion? 1:48:50

14 MS. HERRING: Objection. Form.

15 Go ahead, Doctor.

16 THE WITNESS: Well, that's not the only
17 reason I believed that she wasn't precluded from her
18 occupational demands. That's -- that's one of the
19 findings. 1:49:02

20 Again, these are degenerative findings that
21 progress slowly over time. And she's on that
22 continuum. But then there are other clinical findings
23 and datapoints, if you will, in the records that speak
24 more specifically to her functional capacity during the
25 elimination period. 1:49:25

1 BY MR. MALONEY:

2 Q. Is it possible that Braun managed to work
3 through her pain but ultimately became unable to do so
4 as of her last date worked?

5 MS. HERRING: Objection. Calls for
6 speculation.

1:49:38

7 Go ahead, Doctor.

8 THE WITNESS: I -- I -- I -- I mean, it's --
9 in -- it is -- it would be possible. However, in my
10 review, the data specifically related to her status
11 during the elimination period didn't support that she
12 was incapable of doing her occupational demands.

1:49:58

13 BY MR. MALONEY:

14 Q. And then also on page 836. This is a little
15 bit below the portion I had just read.

16 Did you state that (as read): Although
17 Dr. Geringer retracted his June 2021 statement that
18 indicated he had not opined R/Ls for the employee,
19 there are no new clinical records/findings that support
20 or explain his change in opinion.

1:50:28

21 A. Let me find that statement now. Oh, okay,
22 okay. Although Dr. Ger- -- yes. That's correct. I --
23 that -- that was my opinion.

1:50:45

24 Q. And does R/Ls mean restrictions and
25 limitations?

1 A. It does.

2 Q. Did you review Dr. Geringer's treatment
3 records as part of your first review?

1:50:59

4 A. Yes. I -- I believe I did. I believe I had
5 two -- I -- I think limited records at that time and
6 maybe received from more -- some more records later.

1:51:13

7 I don't recall exactly the sequence, but
8 ultimately I reviewed his records I think through --
9 from his first visit in February through August.

10 Q. Did you list any other rationales for your
11 addendum opinion?

1:51:36

12 A. Let me see. So the initial medical evidence
13 does not change my prior opinion. So therefore, all of
14 my prior -- the rationale that I listed in my prior
15 review would continue to stand and does not support Rs
16 and Is that would've precluded.

1:52:04

17 So I looked at not only the additional
18 medical evidence but also referenced my prior opinion
19 and rationale. So all of that together didn't change
20 my opinion, yes.

1:52:16

21 Q. Okay. Did you distinguish your opinion from
22 the updated statements from Dr. DeForest dated December
23 2nd, 2021 and December 31st, 2021?

1:52:28

24 MS. HERRING: Objection. Form.

25 THE WITNESS: Did I distinguish my opinion?

1 I mean, I stated my opinion. My opinion was that the
2 additional information that would include Dr.

3 DeForest's -- I think I listed it up above. 1:52:44

4 He had a couple of responses in December.
5 And it would've included incorporating his opinions.

6 Q. Did you -- 1:52:57

7 A. Which were not -- which were not changed from
8 -- significantly from his prior opinions either.

9 Q. Did you distinguish your opinion from Braun's
10 personal statement? 1:53:07

11 MS. HERRING: Objection. Form.

12 THE WITNESS: I -- do I answer that?

13 MS. HERRING: Yes --

14 THE WITNESS: Yeah.

15 MS. HERRING: -- yes. 1:53:17

16 THE WITNESS: Yeah.

17 MS. HERRING: Go ahead.

18 THE WITNESS: Okay.

19 I -- not specifically, but I did note that
20 the additional information collectively, which would've
21 included her statement, didn't change my opinion. 1:53:29

22 BY MR. MALONEY:

23 Q. Okay. Did you contact Dr. Geringer based on
24 your differing opinions?

25 A. I attempted to. I attempted to call him and

Page 89

1 then I -- I wrote a letter.

1:53:43

2 Q. Could you please turn to Exhibit 9?

3 A. Sure. Let me pull that up.

1:53:50

4 (Exhibit No. 9 marked for identification.)

5 BY MR. MALONEY:

6 Q. The Bates number is 875.

7 A. Okay.

8 Q. Is this the letter you just mentioned?

1:53:59

9 A. Yes. It appears to be. Yes.

10 Q. And on page 876, does that contain Dr.

11 Geringer's answers to the questions posed?

1:54:13

12 A. Yes. So this is the February 4th, 2022

13 response from Dr. Geringer, and it includes his

14 response to my questions.

15 Q. Have you seen this completed response prior

16 to just now?

1:54:26

17 A. Yes.

18 Q. Okay. In response to question No. 1, did Dr.

19 Geringer respond no, Tammy Braun did not have the

20 physical capacity to perform full-time occupational

21 activity (described above) as of 1/26/21 through

22 4/25/21 and beyond?

1:54:51

23 A. That's correct. He responded, "No."

24 Q. And question No. 2, which reads (as

25 read): Please identify specific restrictions, i.e.,

1 activities that Ms. Braun should not have performed,
2 and/or limitations, i.e., activities that Ms. Braun
3 could not have performed, as of 1/26/21 through 4/25/21
4 and beyond and briefly explain your clinical rationale
5 in support of such restrictions and/or limitations.

1:55:22

6 Did Dr. Geringer respond to that
7 question by stating that (as read): She would have
8 serious difficulty lifting, carrying, pushing, or
9 pulling 10 pounds occasionally due to osteoarthritis in
10 the shoulders, back, hips, and knees.

1:55:38

11 She also have difficulty walking due to bone
12 deformity from her rickets. She requires a cane to
13 ambulate, which also limits her ability to lift and
14 carry.

1:55:48

15 She would have serious difficulty with
16 frequent bilateral handling, fingering, and reaching
17 primarily at the desk level due to osteoarthritis in
18 the shoulders, cervical spine, and thoracic spine.

1:56:00

19 She would have serious difficulty sitting for
20 extended periods due to osteoarthritis in her thoracic
21 spine, lumbar spine, and hips.

22 A. Those were his responses.

1:56:13

23 Q. And then on page 877, in response to
24 question No. 3, did Dr. Geringer respond that (as
25 read): Due to patient's rickets and generalized

1 osteoarthritis involving the shoulders, thoracic spine,
2 lumbar spine, hips, and knees, she would not be able to
3 work on a regular basis.

1:56:35

4 A. Yes. That was his statement.

5 Q. And are Dr. Geringer restrictions/limitations
6 in this response inconsistent with the ability to
7 perform sedentary work?

1:56:51

8 MS. HERRING: Objection. Form.

9 Go ahead, Doctor.

10 THE WITNESS: Well, he -- he notes -- let me
11 review back up above -- that she would have serious
12 difficulty meeting the occupational demands of
13 sedentary job.

1:57:08

14 And that she would have serious difficulty
15 lifting, pushing, pulling 10 pounds. That was one of
16 the demands provided.

1:57:17

17 He notes some difficulty with walking.
18 Difficulty with frequent bilateral handling and
19 fingering and reaching at desk level, which was one of
20 the occupational demands.

1:57:36

21 And she would have difficulty sitting for
22 extended periods. Again. And then he -- he summarizes
23 it due to several diagnoses, that she would not be able
24 to work on a regular basis.

1:57:55

25 So it's clear that he continues to opine that

1 she's unable to work or perform her occupational
2 demands that -- that I presented to him.

3 BY MR. MALONEY:

4 Q. Okay. Did Unum request an updated opinion
5 from you following the receipt of this response from
6 Dr. Geringer?

1:58:16

7 MS. HERRING: Objection. Form.

8 Go ahead, Doctor.

9 THE WITNESS: I -- I mean, I don't see it in
10 front of me. I mean, generally we would complete an AP
11 contact activity or close out an AP contact activity
12 after a response like this. Or any response.

1:58:36

13 BY MR. MALONEY:

14 Q. Sure. And what does that AP contact activity
15 mean?

16 A. It's a -- it's an activity that's -- I
17 typically generate when I call an attending physician.

1:58:49

18 So it -- it's -- it's in our navalink system.
19 It's not the same, but similar as a work activity to
20 like a written review. So I will generate this

21 activity, send a -- make a phone call, send a letter.

1:59:08

22 And when I get a response or don't get a
23 response, I will close that out with a comment. And in
24 this case, the -- the attending physician didn't change
25 his opinion. So.

1:59:21

1 And -- and he didn't present any new clinical
2 data relevant to her functional capacity during the
3 elimination period.

4 Q. So did you have any further involvement with
5 Braun's claim following the receipt of this letter from
6 Dr. Geringer?

1:59:46

7 A. I -- I would have to look back at the file in
8 the AP contact activity to verify that, you know, I
9 closed it out or completed it. I -- I would imagine
10 that I typically would.

2:00:00

11 But without seeing it, I can't confirm one
12 way or another.

13 Q. Sure. Does Unum evaluate the quality of your
14 medical reviews?

2:00:17

15 MS. HERRING: Objection. Form, vague.

16 Go ahead, Doctor.

2:00:21

17 THE WITNESS: In -- in -- in general, they
18 evaluate it. Yes.

19 BY MR. MALONEY:

20 Q. Do you know how?

2:00:33

21 A. Well, certainly there's a QA process that --
22 that evaluates my reviews for certain quality
23 parameters. The appeals specialist who -- claims
24 specialist who receives my review and makes further
25 claim determinations based on that would review the

1 quality of my review, as would the director on the
2 team, as would quality control concess- -- consultant
3 as well. 2:01:06

4 So there are both formal and informal reviews
5 of the quality, I guess you could say.

6 Q. Okay. Has Unum ever brought any problems
7 regarding the quality of your review to your attention? 2:01:20

8 A. I -- I -- can -- can you define problems?
9 Was there like a -- I -- I've never been on any kind of
10 a performance plan or anything like that based on my --
11 the quality of my reviews. 2:01:34

12 Q. Okay. Are you aware of any procedures Unum
13 has in place to reduce a medical consultant's potential
14 bias when rendering opinions? 2:01:52

15 MS. HERRING: Objection. Form, vague.

16 Go ahead, Doctor.

17 THE WITNESS: Well, I've been instructed
18 since my -- since I started working here that I
19 evaluate each claim based on the, you know, merits of
20 the information presented to me and on the merits of
21 the claim itself. 2:02:13

22 So -- so I look at each claim, you know,
23 individually.

24 BY MR. MALONEY:

25 Q. Sure. Has Unum ever made you aware of any

1 instances where your medical opinion has been
2 discredited by a federal court?

2:02:27

3 MS. HERRING: Objection. Form,
4 characterization.

5 Go ahead, Doctor.

6 THE WITNESS: Unum has not approached me with
7 information about a disagreement, or a Unum
8 representative hasn't approached me with a disagreement
9 by a federal court.

2:02:49

10 BY MR. MALONEY:

11 Q. Has Unum ever made you aware of any ongoing
12 litigation against Unum where Unum relied on your
13 medical opinion?

14 A. I -- I -- I've given depositions in the past
15 as part of a -- a litigation process. So yes.

2:03:09

16 Q. Have you ever been reprimanded by Unum
17 regarding your past medical opinions that are
18 discredited by courts?

19 MS. HERRING: Objection. Form, incorrect
20 assumption underlying the question.

2:03:23

21 Go ahead, Doctor.

22 THE WITNESS: No. I've never been
23 reprimanded by -- reprimanded by Unum.

24 BY MR. MALONEY:

25 Q. Has Unum ever provided you with additional

1 medical training following an instance where your
2 medical opinion has been rejected by the federal court? 2:03:40

3 MS. HERRING: Objection. Form,
4 mischaracterization.

5 Go ahead, Doctor.

6 THE WITNESS: No. I've never been directed
7 by Unum to engage in additional medical training based
8 on feedback from a federal court regarding one of my
9 reviews. 2:03:59

10 BY MR. MALONEY:

11 Q. Has Unum provided you with any feedback
12 following a -- an instance where your medical opinion
13 was not adopted by a federal court?

14 MS. HERRING: Objection. Form. 2:04:16

15 Go ahead, Doctor.

16 THE WITNESS: Not -- not that I recall.

17 BY MR. MALONEY:

18 Q. Has Unum implemented any additional medical
19 oversight following an instance where your medical
20 opinion was not adopted by a federal court? 2:04:31

21 MS. HERRING: Objection. Form,
22 characterization.

23 Go ahead, Doctor.

24 THE WITNESS: No, I -- I've never been put
25 under a supervisory plan regarding my reviews. 2:04:43

1 BY MR. MALONEY:

2 Q. Does Unum take any corrective action after a
3 court does not adopt one of your medical opinions?

4 MS. HERRING: Objection. Form,
5 characterization.

2:04:56

6 Go ahead, Doctor.

7 THE WITNESS: I -- I -- I -- I don't know.

8 BY MR. MALONEY:

9 Q. Are you aware of the number of long-term
10 disability claims Unum denied in 2021?

2:05:09

11 A. No.

12 Q. Okay. Do you know approximately how many
13 disability claims you reviewed on Unum's behalf in
14 2021?

15 A. No.

2:05:21

16 Q. You would say it's about a hundred claims a
17 year?

18 A. I -- I -- I really don't -- no, I mean, I
19 would be speculating. I complete probably three to
20 five reviews per week that I work, among other tasks,
21 so I -- I'm not good at public math, so I -- I -- I
22 don't know exactly.

2:05:51

23 Q. Sure. Are you aware of how many of the
24 claims you reviewed in 2021 were ultimately denied?

25 A. No. I don't know.

2:06:07

1 Q. Are you aware of any instance where Unum has
2 awarded disability benefits to a claimant that you
3 deemed capable of performing their occupational
4 demands?

2:06:23

5 MS. HERRING: Objection --

6 THE WITNESS: I don't --

7 MS. HERRING: -- form.

8 Go ahead.

9 THE WITNESS: I don't know.

2:06:27

10 BY MR. MALONEY:

11 Q. Okay. Not including Braun's claim, have you
12 ever rendered a disability or rendered an occupational
13 -- scratch that.

14 Not including Braun's claim, have you ever
15 rendered an opinion on Unum's behalf, a medical
16 opinion, where the claimant alleged disability due to
17 hypophosphatemia?

2:06:49

18 A. I -- I don't recall. I've reviewed files for
19 12 years.

20 Q. Sure. Are there any guidelines or protocols
21 that we haven't discussed which you relied upon in
22 performing your review of Plaintiff's claim?

2:07:08

23 MS. HERRING: Objection. Form.

24 Go ahead, Doctor.

25 THE WITNESS: Could -- could you restate

Page 99

1 that?

2:07:16

2 BY MR. MALONEY:

3 Q. Sure.

4 A. Or.

5 Q. So are there any additional guidelines Unum
6 provides you that you relied upon when conducting your
7 review of Plaintiff's claim?

2:07:26

8 A. Not that Unum has provided me. No.

9 Q. Okay. Could you please turn your attention
10 to Exhibit No. 10?

2:07:35

11 A. Sure.

12 (Exhibit No. 10 marked for identification.)

13 BY MR. MALONEY:

14 Q. The first Bates number is 418. Have you seen
15 this --

2:07:45

16 A. Okay.

17 Q. -- document before?

18 A. No, I don't recall seeing it before.

19 Q. So you didn't --

2:07:56

20 A. Oh, well, I mean, if it was included with the
21 file, then I -- I looked at it. But -- but I don't
22 recall it offhand.

23 Q. Okay. On page 418 there, right after
24 the Introduction, does it state that (as read): In
25 November 2004, Unum Life Insurance Company of American

1 and related entities ("Unum") agreed to a Regulatory
2 Settlement Agreement ("RSA") with state insurance
3 regulators and the U.S. Department of Labor. 2:08:24

4 A. On -- on 418 you're talking about?

5 Q. Yeah. Right after the Introduction -- 2:08:31

6 A. Okay, right. Right. I -- I see the
7 statement there. Yes. Uh-huh.

8 Q. Has Unum ever brought the RSA to your
9 attention? 2:08:39

10 A. Other than I -- I -- I mean, I was made aware
11 that the RSA occurred prior to when I started work
12 here. Yes.

13 Q. Does Unum instruct you to consider the terms
14 of the RSA when drafting your medical opinions? 2:09:00

15 A. I -- I go by our claims manual, and it's my
16 understanding stipulations from RSA and other
17 regulatory type resources are incorporated in that.

18 Q. If you could please turn to page 424.
19 This'll also go on to page 425. 2:09:37

20 Do you see the bullet points at the bottom of
21 the text there?

22 A. Hang on just a second.

23 Q. Sure. 2:09:44

24 A. Okay. 424?

25 Q. Yeah.

1 A. Okay.

2 Q. Does it state that (as read): The RSA
3 and RSA Amendment required Unum to increase emphasis on
4 employee accountability for compliance with law;
5 consider and give weight to all diagnoses and
6 impairments and their combined effect on the whole
7 person when evaluating medical data.

2:10:06

8 Then onto page 525 (as read): Give
9 significant weight to the Social Security
10 Administration's disability decision unless compelling
11 evidence justifies disregarding it.

2:10:19

12 Give significant weight to attending
13 physicians' opinions. Contact attending physicians to
14 discuss disagreements. Fairly interpret and apply
15 information from attending physicians, and explain
16 medical reasons for disagreeing with attending
17 physicians.

2:10:33

18 Is that --

19 A. I --

20 Q. -- accurate?

21 A. I -- I -- yeah, that -- that is the
22 statement. Those are the statements there, yes.

2:10:39

23 Q. Does Unum instruct you specifically to give
24 significant weight to attending physicians' opinions?

25 A. When I review a file, among many other

1 things, I -- I do give significant weight to the
2 attending physicians' opinions.

2:11:00

3 Q. But does Unum instruct you to do so?

4 A. Well, yes, I've been advised that -- that I
5 need to give significant weight to the attending
6 physicians' opinions.

2:11:14

7 Q. Is it your position that you afforded
8 significant weight to the opinions rendered by Dr.
9 DeForest and Dr. Geringer?

10 A. Yes.

11 Q. Does Unum instruct you on how to fairly
12 interpret and apply information from attending
13 physicians?

2:11:28

14 MS. HERRING: Objection. Form.

15 THE WITNESS: Yeah, I -- I -- I -- I -- I
16 mean -- I mean, there's instruction in our claims
17 manual on how -- how to consider the -- or how to give
18 weight to the attending physicians' opinions.

2:11:47

19 BY MR. MALONEY:

20 Q. And that includes fairly interpreting and
21 applying info from attending physicians?

22 A. Yes. Yes.

2:11:56

23 Q. Did you fairly interpret and apply the
24 information from Dr. DeForest and Dr. Geringer?

25 A. Among many other things, I considered their

1 opinions and the information provided by -- including
2 their opinions by Dr. DeForest and Dr. Geringer. 2:12:12

3 Q. Okay. That's all I have. Scratch that.

4 MR. DEBOFSKY: Let's go off the record for -- 2:12:20

5 MR. MALONEY: Okay.

6 Can we go off the record for a brief moment?

7 MS. HERRING: Sure.

8 THE WITNESS: Sure. 2:12:25

9 THE RECORDER: Sure. Off --

10 MR. MALONEY: Thank you.

11 THE RECORDER: Off the record at 12:29 p.m.

12 (Off the record)

13 THE RECORDER: We are back on the record at
14 12:31 p.m. 2:12:34

15 MR. MALONEY: Okay.

16 BY MR. MALONEY:

17 Q. Doctor, you said that you don't rely on any
18 other guidelines than Unum's claims manual.

19 A. I'm -- it -- well, I -- Unum didn't provide
20 me any other guidelines other than the -- you know,
21 their claims manual in this. 2:12:57

22 I mean, I -- I rely -- when I look at record
23 -- when I do a medical review, I -- I do review or rely
24 on existing treatment guidelines for, you know,
25 different conditions in some cases. 2:13:12

1 Q. Do you rely on The Medical Disability
2 Advisor?

3 A. No.

4 Q. Do you rely upon The American Medical
5 Association's Guides to Evaluation of Permanent
6 Impairment?

2:13:27

7 A. I -- I -- you know, I look at that in the
8 context of the file, but I wouldn't say it's a -- a --
9 it's not a didactic, you know, or a -- something that I
10 specifically, you know, go by.

2:13:45

11 I mean, I look -- I make my own opinion.

12 Q. All right. Did you rely on that AMA guide in
13 relation to Braun's case specifically?

2:13:55

14 A. No.

15 Q. Okay.

16 MR. MALONEY: That's all I have.

17 MS. HERRING: Okay.

2:14:01

18 CROSS EXAMINATION

19 BY MS. HERRING:

20 Q. Doctor, I have a few questions, and I'm going
21 to try to screenshare an exhibit with you, so hopefully
22 that'll work for me.

23 A. Okay.

2:14:08

24 Q. We will find out. Can you see it?

25 A. Okay. I -- I do. Yes.

2:14:24

1 Q. Okay. And unfortunately, I'm in control of
2 the document, not you, so you can't control how quickly
3 I scroll.

4 A. Right.

5 Q. But as I'm scrolling through here, I just
6 want to know if you recognize what this document is. 2:14:36

7 MS. HERRING: And Matt, this is from pages
8 878 to 880 in the administrative record.

9 MR. MALONEY: Okay.

10 THE WITNESS: So can -- can you stop for a
11 second there?

12 BY MS. HERRING:

13 Q. Yes. 2:14:46

14 A. Back -- back up to the title there. This --
15 this is a -- an AP contact activity. It looks like I'm
16 the owner of it. I don't see it says -- oh, it's
17 created by me as well, which would typically be the
18 case. 2:15:04

19 So it was created on the 19th. That's
20 probably the date I tried to call him. And it's a --
21 yeah, to Dr. Geringer. So it talks about the reason of
22 the AP contact. 2:15:18

23 Disagreement. Okay.

24 Q. So is this document the documentation of your
25 attempt to contact Dr. Geringer?

Page 106

1 A. It is. 2:15:31

2 Q. And that occurred on January 19th of 2022?

3 A. The first call date was January 19th, 2022.

4 Yes. 2:15:41

5 Q. Okay. And when you weren't able to speak

6 with Dr. Geringer, what -- what did you do next?

7 A. I drafted a letter to Dr. Geringer. 2:15:49

8 Q. Okay. And we saw that letter in -- in one of

9 the earlier exhibits; is that right?

10 A. Yes.

11 Q. Okay. And I'm scrolling down to the last

12 page here, which is page 880. 2:16:07

13 Can you describe for me what we're looking at

14 here on page 880?

15 A. Okay. So this is under Next Steps. It's

16 where I include my summary of my review of Dr.

17 Geringer's response. 2:16:20

18 And so as it states, he responded to my

19 letter on 2/4/22. And he continued to opine that the

20 insured would be unable to perform her sedentary

21 occupational demands as of the dates noted there. 2:16:35

22 Q. Okay. And so that was again the letter we

23 looked at earlier in Exhibit 9, when we were looking at

24 Dr. Geringer's response to your letter. Correct? 2:16:47

25 A. That's correct.

1 Q. Okay. So you did review the response that
2 Dr. Geringer made to your letter.

2:16:54

3 A. Yes. That's correct.

4 Q. Okay. And what did you conclude after
5 reviewing his response?

2:17:02

6 A. Well, he didn't include any additional or new
7 medical findings or examination findings. He
8 reaffirmed his -- his prior opinions that she wasn't
9 able to perform her occupational demands.

2:17:16

10 And it didn't change my opinion. So I've
11 considered his opinion, and again, as I note there, as
12 previously stated, my analyst and rationale regarding
13 her capacity.

2:17:27

14 And it -- it didn't change my opinion.

15 Q. Okay. And we're going to mark this document
16 here as Exhibit 11 to the deposition.

2:17:39

17 (Exhibit No. 11 marked for identification.)

18 BY MS. HERRING:

19 Q. And -- and Doctor, is -- is -- is this
20 information here what you referred to earlier in your
21 testimony as AP contact activity?

2:17:47

22 A. That's correct. Yes.

23 Q. Okay. And so this is you closing out the
24 contact.

25 A. That -- that -- that's correct.

2:17:52

1 Q. Okay. Doctor, you were asked a number of
2 questions earlier about information that was not listed
3 in your report. When you are preparing a report, do
4 you specifically copy verbatim everything that you
5 review?

2:18:16

6 A. No.

7 Q. And why not?

8 A. Well, it'd be too lengthy, for one thing.
9 It'd be the whole file. And so I -- I summarize a lot
10 of things.

2:18:26

11 And you -- you know, and I specifically cite
12 other things. And I might, like I say, summarize
13 findings or reported symptoms or exam findings,
14 treatment, those kind of things.

2:18:43

15 And I may not go just list verbatim what the
16 records state.

17 Q. And Doctor, is the fact that something isn't
18 listed verbatim in your report -- is that indicative of
19 whether you considered the information?

2:18:56

20 A. No. I considered all the information in the
21 file.

22 Q. Okay. You also testified earlier -- you were
23 asked whether you recommended a functional capacity
24 evaluation for Ms. Braun.

2:19:07

25 And you indicated you did not make that

1 recommendation. Why not?

2 A. Several reasons. I -- I was asked to review
3 the file I think in October of 2021.

2:19:19

4 That's, again, six months after the end of
5 the period that I was asked to assess her functional
6 capacity during. I -- in that interim, she had
7 reported some worsening of some symptoms.

2:19:32

8 I didn't have all the records, the treatment
9 records, the providers in that later period. But a
10 functional capacity evaluation as of October or
11 November, probably more practically when it would've
12 been accomplished, I don't feel would be time relevant
13 regarding her status back six, seven months prior to
14 that and -- and before.

2:19:56

15 Q. Did you feel that you had adequate
16 information in -- in the medical records to render the
17 opinions that you did?

18 A. Yes. There's adequate information regarding
19 her reported symptoms. There's adequate information,
20 diagnostic information, Multiple x-rays that clearly
21 showed her degenerative condition.

2:20:20

22 There's adequate treatment records regarding
23 the -- her treatment and the stability relatively
24 thereof. There are adequate records showing --
25 describing her response to treatment.

2:20:32

1 Particularly, Dr. Geringer's earlier notes
2 and the PT notes toward the end of the elimination
3 period. And so I felt that was adequate information,
4 medical information, to consider. 2:20:48

5 Q. And so a functional capacity evaluation would
6 not have added to your analysis.

7 A. No. A functional capacity evaluation in
8 October or November of 2021 would not have added to my
9 analysis of her function during that January to April
10 2021 time period, the elimination period. 2:21:10

11 Q. Okay. You were also asked questions about
12 whether you spoke with Ms. Braun directly, and you
13 indicated that you did not. 2:21:18

14 Can you explain why not?

15 A. That -- that -- the -- we -- we -- we are not
16 a -- a -- we're -- we don't typically speak with a
17 claimant and are -- have been instructed that if a
18 claimant calls to speak with us, that -- that we defer
19 to the appeals specialist to answer any questions. 2:21:40

20 Q. Okay. And I think you testified that you had
21 several statements from Ms. Braun as well as
22 documentation from a telephone call with Ms. Braun.
23 Correct? 2:21:49

24 A. That's correct.

25 Q. As well as her medical records where she

1 described her condition.

2 A. Yes. Yes. Exactly. And so her -- her --
3 her input regarding her symptoms was well-documented in
4 the file. 2:22:02

5 Q. Okay. You were asked a number of questions
6 about Ms. Braun's activities that you identified in
7 your report. And you gave some testimony about a --
8 you know, an activity in isolation and that means or
9 doesn't mean to you. 2:22:19

10 Can -- can you explain what you meant by
11 that?

12 A. Well, again, in the big picture of my
13 analysis, the activities are part of my consideration
14 when I look at somebody's capacity to perform their
15 occupational demands presented to me. 2:22:35

16 So I -- you -- you -- you know, again, the --
17 there are -- certainly I consider what was -- was
18 written there. And -- and it -- and it may give me,
19 again, information that I use in the context of other
20 information, like more current examinations at the
21 time, or -- or reported symptoms or diagnostic
22 findings. 2:23:04

23 There are any number of things. And when I
24 put that together in a whole person context, I mean,
25 that's how I come up with my analysis. 2:23:13

1 So any activity in isolation doesn't really
2 mean much to me one way or another. It -- it -- it --
3 and it's, again, putting it in the context of the other
4 information in the file as a whole person analysis, if
5 you will.

2:23:28

6 Q. Okay. And at the beginning of your
7 deposition, counsel asked you a -- a number of
8 questions, for example, whether hypophosphatemia could
9 potentially preclude someone from performing sedentary
10 work activities.

2:23:47

11 Do you remember those questions?

12 A. I do.

13 Q. Okay. In Ms. Braun's case, did you find that
14 any of her conditions, together or in isolation,
15 precluded her from performing the work activities that
16 were specified in your report?

2:24:02

17 A. No. And in particular, hypophosphatemia is a
18 lifelong condition. And interestingly, the -- this was
19 managed by her primary care physician all along.

2:24:16

20 And the records didn't -- and surprisingly
21 didn't document a low phos- -- phosphorus level in
22 there. And again, it's not the hypophosphatemia in her
23 case that is causing -- that -- that is her bigger
24 concern.

2:24:35

25 But it's the end result of her degenerative

1 joint disease as a result of that. So her
2 hypophosphatemia appears to be stably controlled by her
3 primary care provider. 2:24:50

4 Q. Okay. And in -- in your opinion, did her
5 degenerative joint disease or carpal tunnel, any of the
6 other diagnoses or symptoms that you saw as part of the
7 record -- in your opinion, did those preclude her from
8 working in the occupational demands that were
9 identified to you in your report? 2:25:09

10 A. No. Specifically regarding the question I
11 was asked, which was her functional status during the
12 elimination period, clearly there were no findings
13 regarding impairment related to carpal tunnel syndrome. 2:25:24

14 I -- I saw no evidence of a -- a hand atrophy
15 or a -- a -- a -- a sensory loss or those things that
16 you would associate with carpal tunnel syndrome.
17 Regarding her joint -- degenerative joint -- joint
18 disease, again, Dr. Geringer, on two different
19 occasions at least during the elimination period, noted
20 that -- that she had full range of motion of all her
21 joints that were examined. 2:25:49

22 And there's no tenderness or swelling. And
23 then the physical therapist noted a -- a -- you know, a
24 -- a good functional capacity in their evaluation. 2:26:02

25 So I -- you know, putting all those things

1 together, I didn't find impairment related to
2 degenerative joint disease that would keep her from
3 performing, you know, the occupational demands of
4 essentially sedentary type occupational activity. 2:26:19

5 Q. Okay. And you mentioned that Ms. Braun's
6 hypophosphatemia was managed by her primary care
7 physician. Is -- is that typical for hypophosphatemia? 2:26:29

8 A. I think for stable hypophosphatemia, that
9 would be the case, that a -- a primary care physician
10 would -- would manage and monitor that. And if there
11 were a problem, an exacerbation, her phosphate levels
12 were way too high or too low and couldn't be
13 controlled, then they might be referred to a
14 specialist, such as an endocrinologist or somebody --
15 or like that. 2:26:49

16 But in her case, it appears to have been
17 stable, and -- and even on routine laboratory testing,
18 I didn't find that it was even followed on a ongoing
19 longitudinal basis. 2:27:00

20 Q. Okay. And -- and Doctor, before you started
21 working for Unum, how were you employed?

22 A. I was employed by the Air Force for about
23 20-1/2 years. 2:27:13

24 Q. So approximately when did you start working
25 for the Air Force?

1 A. 1990 I started in the Air Force.

2 Q. What did you do in the Air Force?

2:27:23

3 A. Lots of things. I started out as an intern
4 in internal medicine. I was a flight surgeon for about
5 three years. Did a residency in aerospace medicine in
6 the Air Force at Offutt Air Force Base in Nebraska.

2:27:38

7 I came out as a family physician. I worked
8 as a -- a staff family physician and subsequently went
9 back into flight medicine. I was a chief of medical
10 staff at a point.

2:27:51

11 I did a residency -- I did a master's of
12 public health and -- and then I did residency in
13 aerospace medicine and occupational medicine and
14 continued to practice both of those specialties and
15 family medicine and also had a role as a squadron
16 commander for two years.

2:28:09

17 And then went to be the -- the director of
18 the Air Force flight surgeon training program before I
19 retired.

20 Q. And Doctor, you've referred to flight
21 medicine and aerospace medicine. Can you explain what
22 those are?

2:28:26

23 A. Sure. It includes a lot. It's a -- it's --
24 we call it an Air Force operational medicine. But the
25 big -- the big component of it is primary care for air

1 crew, special duty personnel, and their families. 2:28:37

2 It involves the specialty of occupational
3 medicine and you function as a profile officer. You
4 determine return to work capacity of not only air crew
5 but other job duties personnel in the Air Force. 2:28:58

6 You practice operational medicine we called
7 it. That would be deployment medicine. Actually
8 deploy, plan for deploying. You're often in charge of
9 many disaster response programs. 2:29:10

10 So a big component of occupational medicine
11 in that role is a flight surgeon, big component of
12 primary care provision direct care in that role, and --
13 and a big component of return to work and medical duty
14 dispositions.

15 Q. Okay. So even though it's -- it -- it's
16 flight medicine, it -- it's still the components of the
17 primary care and occupational medicine. 2:29:34

18 A. That's -- that's right. Primary care is a --
19 is a cornerstone of aerospace medicine, but it includes
20 a lot of other things. 2:29:40

21 Q. Okay. And I -- can you describe -- I -- you
22 -- what are you board-certified in?

23 A. I'm board-certified in family medicine,
24 board-certified in occupational environmental medicine,
25 I'm board-certified in aerospace medicine. 2:29:53

1 Q. And what is family medicine?

2 A. Okay, so family medicine, family practice is
3 typically. Primary care medicine.

2:30:03

4 And -- and it's, again, general care for a
5 whole range of medical conditions, preventive medicine
6 for a whole range of population, including, you know,
7 kids, newborns, all the way to the elderly.

2:30:18

8 Q. And what is occupational environmental
9 medicine?

10 A. Yeah, so occupational environmental medicine
11 would be the specialty of identifying and treating --
12 diagnosing and treating occupationally related
13 injuries, diseases.

2:30:36

14 It would include understanding the workplace,
15 toxicities involved in -- in workplaces, various
16 workplaces. Being intimately -- intimately
17 understanding return to work evaluations and
18 procedures, processes.

2:30:55

19 Education of workers and -- regarding their
20 workplace and maybe associated hazards. Would be a --
21 kind of the -- the big rocks, I guess.

2:31:05

22 Q. And what is a return to work evaluation?

23 A. So a return to work evaluation would be
24 whether an individual who was taken out of work for one
25 reason or another is safe to return to work and has the

1 capacity to return to work.

2:31:22

2 And it involves coordination with their
3 treating physicians, their specialists. Again,
4 understanding and considering opinions of their
5 specialists and people making your own opinion based on
6 the medical data that you've -- that's been presented
7 to you and any other overriding, you know, guidelines
8 -- in -- in the case of the Air Force, there's a big
9 list of regulations of who can do what, when, and
10 where.

2:31:51

11 And understanding that, understanding the
12 waiver process, maybe some of those type things.

13 Q. And -- and so as -- as part of the specialty
14 certification for occupational medicine, that involves
15 return to work evaluations.

2:32:05

16 A. Absolutely.

17 Q. Okay. Can you please outline your
18 educational background?

19 A. So, starting when?

2:32:17

20 Q. Your -- your first advanced degree. How
21 about that?

22 A. Okay, okay. We'll eliminate elementary
23 school then.

2:32:24

24 Q. Yes.

25 A. Yeah. So, well, I graduated from

1 undergraduate at University of Tennessee in Knoxville.

2 I went to University of Tennessee Medical School,
3 University of Tennessee Center for Health Sciences for
4 medical school. It's in Memphis.

2:32:37

5 Directly after that, I -- I did an internship
6 for one year in internal medicine in the Air Force. I
7 came out as a field -- in the field, as we call it, as
8 a flight surgeon, a GMO, general medical officer,
9 flight surgeon for three years.

2:32:52

10 I returned to family medicine residency at
11 that point, 1994 I think it was. Finished in 1997.

12 And so I completed my family medicine residency there.

2:33:06

13 I -- I completed a master's of public health
14 in -- at University of South Carolina. The year -- I'm
15 thinking it was about 2005. These start to get a
16 little fuzzy.

2:33:17

17 And then entered aerospace medicine residency
18 training 2005. Finished that in 2006. Went right into
19 occupational medicine training, residency training.

2:33:27

20 I finished that in 2007. And I think that's
21 -- that's it.

22 Q. Okay. Have you ever been disciplined by any
23 state medical licensing board?

2:33:39

24 A. No.

25 Q. Okay. When you are asked to answer questions

1 or provide opinions on a claimant's case, what do you
2 understand your role to be?

2:33:57

3 A. To give that medical professional opinion
4 regarding the specific question that I'm asked. And
5 that varies from claim to claim.

2:34:09

6 Q. Has -- has Unum ever instructed you to make
7 medical findings that are adverse to a claimant?

8 A. No.

9 Q. Okay. Has Unum ever instructed you that you
10 have to find in a certain number of cases that a
11 claimant doesn't have limitations?

2:34:25

12 A. No.

13 Q. Do you understand your compensation in any
14 way to be impacted on you -- based on your medical
15 substantive findings?

16 A. It -- it is not.

2:34:39

17 Q. Okay. Are you given any financial incentives
18 to make medical findings that are adverse to a
19 claimant?

20 A. No.

2:34:49

21 Q. Does your compensation depend in any way on
22 whether your medical findings are perceived to be
23 adverse to Unum or adverse to a claimant?

24 A. No.

2:35:00

25 Q. That's all I have, Doctor. Thank you.

1 A. Thank you.

2 MR. MALONEY: I think I just have a quick
3 couple of questions.

2:35:15

4 REDIRECT EXAMINATION

5 BY MR. MALONEY:

6 Q. Regarding the response from Dr. Geringer on
7 February 4th, 2022, did you ask him to provide update
8 clinical info in that letter?

9 A. No. He certainly has the opportunity to do
10 that. And that -- it was provided periodically during
11 the claim period.

2:35:35

12 Or during the appeal, actually.

13 Q. But in your letter to him, you do not
14 specific request updated clinical info?

15 A. No. That would be at his discretion.

16 Q. Okay.

17 MR. MALONEY: I think that's all I have.

2:35:51

18 MS. HERRING: Okay. We will reserve
19 signature.

20 THE RECORDER: Okay. Off the record at 12:55
21 p.m.

22 (Off the record)

23

24

25

1 CERTIFICATION

2 I, Marina Stokes, do hereby certify that the
3 foregoing transcript of said deposition is a true,
4 complete and correct report of the entire testimony so
5 given by said witness, together with such other matters
6 and things as counsel for the parties present at the
7 taking of said deposition desire to have appear of
8 record.

9 I further certify that on January 17, 2023
10 said witness, SCOTT BARCLEY NORRIS, M.D. was first duly
11 sworn to testify to the truth, the whole truth and
12 nothing but the truth in the cause aforesaid; that the
13 testimony then was recorded by audio/visual recording
14 device, by me in the presence of said witness and
15 thereafter transcribed into typewriting under my
16 direction and control.

17 I further certify that I am not counsel for,
18 nor attorney for any of the parties to the aforesaid
19 cause, nor am I related to any of the parties to the
20 aforesaid cause, nor am I interested in any manner in
21 the said cause or in its outcome.

22 I further certify that the signature to the
23 foregoing deposition was reserved by the witness.

24

25

1 IN TESTIMONY WHEREOF: I have hereunto set
2 my hand and affixed my notarial seal:

3

4

5 Marina A. Stokes

6 February 22, 2023

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION

TAMMY BRAUN

Plaintiff

v.

UNUM LIFE INSURANCE COMPANY
OF AMERICA

Defendant

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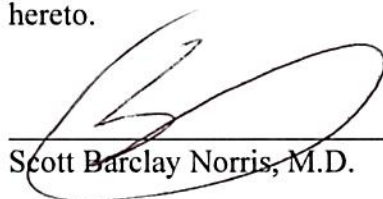
Case No. 1:22-cv-01223

Judge Robert W. Gettleman

Magistrate Judge Young B. Kim

CERTIFICATION

This is to certify that I, Scott Barclay Norris, M.D., pursuant to 28 U.S.C. §1746, declare under penalty of perjury, that I have read the transcript of my deposition taken on 1/17/23, in the foregoing cause, and that the foregoing transcript accurately states the questions asked and the answers given by me, with the changes or corrections, if any, made on the Errata Sheet attached hereto.



Scott Barclay Norris, M.D.

Number of errata sheets submitted 1 (pgs.)

Scott B. Norris MD MPH
Deposition (1/17/23) Corrections

p.7 l.14	change 'Occupational environmental medicine' to 'Occupational and Environmental Medicine'
p.7 l.24	change 'Occupational environmental medicine' to Occupational and Environmental Medicine
p.8 l.21	change 'Education workers' to 'Education of workers'
p.25 l.1	change 'navalink' to 'NaviLink'
p.63 l.10	change 'as' to 'and'
p.107 l.12	change 'analyst' to 'analysis'
p.115 l.5	correct/change 'aerospace' to 'Family'
p.122 l.10	change 'Barcley' to 'Barclay'